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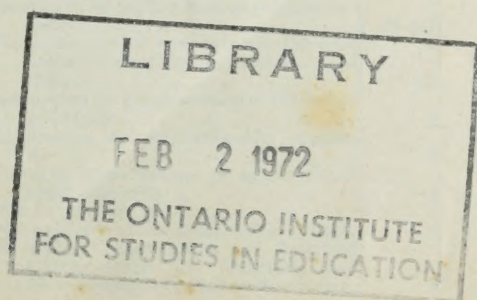
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- 9-10 Geo. V, 1919—C. 56.
- 10-11 Geo. V, 1920—C. 50.

CONSOLIDATED AND INDEXED



THE INDIAN ACT

1874

By the Hon. the Secretary of the Interior

and the Hon. the Commissioner of the General Land Office

of the Department of the Interior

of the United States of America

as amended by the Act of March 3, 1879

and the Act of March 3, 1879

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TO

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WITH AMENDMENT TO DATE: OCT. 1920.

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AN ACT RESPECTING INDIANS.

SHORT TITLE.

1. This Act may be cited as the Indian Act. R.S., c. 43, s. 1. Short title.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
- Definitions.**
- (a) “Superintendent General” means the Superintendent General of Indian Affairs, and “Deputy Superintendent General” means the Deputy Superintendent General of Indian Affairs; “Superintendent General.”
- (b) “agent” or “Indian agent” means and includes a commissioner, assistant commissioner, superintendent, agent or other officer acting under the instructions of the Superintendent General; “Agent.”
“Indian agent.”
- (c) “person” means an individual other than an Indian; “Person.”
- (d) “band” means any tribe, band or body of Indians who own or are interested in a reserve or in Indian lands in common of which the legal title is vested in the Crown, or who share alike in the distribution of any annuities or interest moneys for which the Government of Canada is responsible; and, when action is being taken by the band as such, means the band in council; “Band.”
- (e) “irregular band” means any tribe, band or body of persons of Indian blood who own no interest in any reserve or lands of which the legal title is vested in the Crown, who possess no common fund managed by the Government of Canada, and who have not had any treaty relations with the Crown; “Irregular band.”
- (f) “Indian” means “Indian.”
- (i) any male person of Indian blood reputed to belong to a particular band,
- (ii) any child of such person,
- (iii) any woman who is or was lawfully married to such person;
- (g) “non-treaty Indian” means any person of Indian blood who is reputed to belong to an irregular band, or who follows the Indian mode of life, even if such person is only a temporary resident in Canada; “Non-treaty Indian.”
- (i) “reserve” means any tract or tracts of land set apart by treaty or otherwise for the use or benefit of or granted to a particular band of Indians, of which the legal title is in the Crown, and which remains so set apart and has not been surrendered to the Crown, and includes all the trees, wood, timber, soil, stone, minerals, metals and other valuables thereon or therein; “Reserve.”

"Special
reserve."

(j) "special reserve" means any tract or tracts of land, and everything belonging thereto, set apart for the use or benefit of and held in trust for any band or irregular band of Indians, the title of which is vested in a society, corporation or community legally established, and capable of suing and being sued or in a person or persons of European descent;

"Indian
lands."

(k) "Indian lands" means any reserve or portion of a reserve which has been surrendered to the Crown;

"Intox-
icants."

(l) "intoxicants" means and includes all spirits, strong waters, spirituous liquors, wines, or fermented or compound liquors, or intoxicating drink of any kind whatsoever, and any intoxicating liquor or fluid, and opium, and any preparation thereof, whether liquid or solid, and any other intoxicating drug or substance, and tobacco or tea mixed or compounded or impregnated with opium or with other intoxicating drugs, spirits or substances, and whether the same or any of them are liquid or solid.

"Ter-
ritories"

(m) "Territories" means the Northwest Territories and the Yukon Territory. R.S., c. 43, s. 2; 10-11 Geo. V., c. 50, s. 3.

PART I.

INDIANS.

Application.

Governor
in Council
may
exempt
from oper-
ation of
this Part,
and remove
such exemp-
tion

3. The Governor in Council may, by proclamation, from time to time, exempt from the operation of this Part, or from the operation of any one or more of the sections of this Part, Indians or non-treaty Indians, or any of them, or any band or irregular band of them, or the reserves or special reserves, or Indian lands, or any portions of them, in any province or in the Territories, or in any of them; and may again, by proclamation, from time to time, remove such exemption. R.S., c. 43, s. 3.

Department of Indian Affairs.

Any Minister
may be
appointed
Superinten-
dent General
of Indian
Affairs.

4. The Minister of the Interior, or the head of any other department appointed for that purpose by the Governor in Council, shall be the Superintendent General of Indian Affairs, and shall, as such, have the control and management of the lands and property of the Indians in Canada. R.S., c. 43, s. 4.

Department
of Indian
Affairs.

5. There shall be a department of the Civil Service of Canada which shall be called the Department of Indian Affairs, over which the Superintendent General shall preside. R.S., c. 43, s. 5.

6. The Department of Indian Affairs shall have the management, charge and direction of Indian affairs. R.S., c. 43, s. 6. Duties.

7. The Governor in Council may appoint,—

(a) an officer who shall be called the Deputy of the Superintendent General of Indian Affairs, and such other officers, clerks and servants as are requisite for the proper conduct of the business of the Department; Appointments by Governor in Council.

(b) an Indian commissioner and an assistant Indian commissioner for the provinces of Manitoba, Saskatchewan and Alberta, and the Territories, or an Indian commissioner and an assistant Indian commissioner for Manitoba and that portion of Canada formerly known as the district of Keewatin, and an Indian commissioner and an assistant Indian commissioner for the provinces of Saskatchewan and Alberta and the Territories, except that portion formerly known as the district of Keewatin, and for the Yukon Territory;

(c) an Indian superintendent for British Columbia;

(d) a deputy governor. R.S., c. 43, ss. 7 and 8.

8. The Deputy Governor shall have the power, in the absence of or under instructions of the Governor General, to sign letters patent for Indian lands. Deputy Governor.

2. The signature of the Deputy Governor to such patents shall have the same force and virtue as if such patents were signed by the Governor General. R.S., c. 43, s. 8. May sign letters patent.

Schools.

9. (1) The Governor in Council may establish,—

(a) day schools in any Indian reserve for the children of such reserve; Power to establish day schools and industrial or boarding schools.

(b) industrial or boarding schools for the Indian children of any reserve or reserves or any district or territory designated by the Superintendent General.

(2) Any school or institution the managing authorities of which have entered into a written agreement with the Superintendent General to admit Indian children and provide them with board, lodging and instruction may be declared by the Governor in Council to be an industrial school or a boarding school for the purposes of this Act. Or to declare any school to be industrial or boarding school.

(3) The Superintendent General may provide for the transport of Indian children to and from the boarding or industrial schools to which they are assigned, including transportation to and from such schools for the annual vacations. Transport of children to schools.

(4) The Superintendent General shall have power to make regulations prescribing a standard for the buildings, equipment, teaching and discipline of and in all schools, and for the inspection of such schools. Regulations to prescribe standards.

Inspection
of schools
by chief
and council.

(5) The chief and council of any band that has children in a school shall have the right to inspect such school at such reasonable times as may be agreed upon by the Indian agent and the principal of the school.

Annuities
and interest
applied
to maintenance.

(6) The Superintendent General may apply the whole or any part of the annuities and interest moneys of Indian children attending an industrial or boarding school to the maintenance of such school or to the maintenance of the children themselves. 10-11 Geo. V., c. 50, s. 1.

Children
from 7 to
15 to attend
school.

10. (1) Every Indian child between the ages of seven and fifteen years who is physically able shall attend such day, industrial or boarding school as may be designated by the Superintendent General for the full periods during which such school is open each year. Provided, however, that such school shall be the nearest available school of the kind required, and that no Protestant child shall be assigned to a Roman Catholic school or a school conducted under Roman Catholic auspices, and no Roman Catholic child shall be assigned to a Protestant school or a school conducted under Protestant auspices.

Proviso as
to religions.

Truant
officers and
compulsory
attendance.

(2) The Superintendent General may appoint any officer or person to be a truant officer to enforce the attendance of Indian children at school, and for such purpose a truant officer shall be vested with the powers of a peace officer, and shall have authority to enter any place where he has reason to believe there are Indian children between the ages of seven and fifteen years, and when requested by the Indian agent, a school teacher or the chief of a band shall examine into any case of truancy, shall warn the truants, their parents or guardians or the person with whom any Indian child resides, of the consequences of truancy, and notify the parent, guardian or such person in writing to cause the child to attend school.

Power to
investigate
cases of
truancy.

Notice to
parents,
guardians,
etc.

Penalty for
guardian,
parent or
other
failing
to cause
child to at-
tend school,
after notice.

(3) Any parent, guardian or person with whom an Indian child is residing who fails to cause such child, being between the ages aforesaid, to attend school as required by this section after having received three days' notice so to do by a truant officer shall, on the complaint of the truant officer, be liable on summary conviction before a justice of the peace or Indian agent to a fine of not more than two dollars and costs, or imprisonment for a period not exceeding ten days or both, and such child may be arrested without a warrant and conveyed to school by the truant officer: Provided that no parent or other person shall be liable to such penalties if such child, (a) is unable to attend school by reason of sickness or other unavoidable cause; (b) has passed the entrance examination for high schools; or, (c) has been excused in writing by the Indian agent or teacher for temporary absence to assist in husbandry or urgent and necessary household duties. 10-11 Geo. V., c. 50, s. 1.

Exemptions
from
attendance.

11A. The Governor in Council may take the land of an Indian held under location ticket or otherwise, for school purposes upon payment to such Indian of the compensation agreed upon, or in case of disagreement such compensation as may be determined in such manner as the Superintendent General may direct. 4-5 Geo. V., c. 35, s. 2. **Taking land for schools.**

Membership of Band.

12. Any illegitimate child may, unless he has, with the consent of the band whereof the father or mother of such child is a member, shared in the distribution moneys of such band for a period exceeding two years, be, at any time, excluded from the membership thereof by the Superintendent General. R.S., c. 43, s. 9. **Exclusion of natural children from band.**

13. Any Indian who has for five years continuously resided in a foreign country without the consent, in writing, of the Superintendent General or his agent, shall cease to be a member of the band of which he was formerly a member; and he shall not again become a member of that band, or of any other band, unless the consent of such band, with the approval of the Superintendent General or his agent, is first obtained. R.S., c. 43, s. 10. **Loss of membership, through residence in a foreign country without leave.**

14. Any Indian woman who marries any person other than an Indian, or a non-treaty Indian, shall cease to be an Indian in every respect within the meaning of this Act, except that she shall be entitled to share equally with the members of the band to which she formerly belonged, in the annual or semi-annual distribution of their annuities, interest moneys and rents: Provided that such income may be commuted to her at any time at ten years' purchase, with the approval of the Superintendent General. 10-11 Geo. V., c. 50, s. 2. **Effects of marriage of Indian woman.**
Supt. Gen. may commute income

15. Any Indian woman who marries an Indian of any other band, or a non-treaty Indian, shall cease to be a member of the band to which she formerly belonged, and shall become a member of the band or irregular band of which her husband is a member. **Marriage of Indian woman with Indian of another band or non-treaty**

2. If she marries a non-treaty Indian, while becoming a member of the irregular band of which her husband is a member, she shall be entitled to share equally with the members of the band of which she was formerly a member, in the distribution of their moneys; but such income may be commuted to her at any time at ten years' purchase, with the consent of the band. R.S., c. 43, s. 12. **If she marries non-treaty Indian.**

16. No half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian. **As to half-breeds in Manitoba.**

2. No half-breed head of a family, except the widow of an Indian or a half-breed who has already been admitted into a **Half-breed heads of families.**

treaty, shall, unless under very special circumstances, which shall be determined by the Superintendent General or his agent, be accounted an Indian or entitled to be admitted into any Indian treaty.

Withdrawal
from treaty.

3. Any half-breed who has been admitted into a treaty shall, on obtaining the consent in writing of the Superintendent General, be allowed to withdraw therefrom on signifying his desire so to do in writing, signed by him in the presence of two witnesses, who shall attest his signature on oath before some person authorized by law to administer such oath.

Wife and
minor
children.

4. Such withdrawal shall include the wife and minor unmarried children of such half-breed. 51 V., c. 22, s. 1, 4-5 Geo. V., c. 35, s. 3-4.

Transfer of
Indian from
one band to
another.

17. When, by a majority vote of a band, or the council of a band, an Indian of one band is admitted into membership in another band, and his admission thereinto is assented to by the Superintendent General, such Indian shall cease to have any interest in the lands or moneys of the band of which he was formerly a member, and shall be entitled to share in the lands and moneys of the band to which he is so admitted.

Share of
capital.

2. The Superintendent General may cause to be deducted from the capital of the band of which such Indian was formerly a member his *per capita* share of such capital and place the same to the credit of the capital of the band into membership in which he has been admitted in the manner aforesaid. 58-59 V., c. 35, s. 8.

Determina-
tion of mem-
bership of
band

18. The Superintendent General may, from time to time, upon the report of an officer, or other person specially appointed by him to make an inquiry, determine who is or who is not a member of any band of Indians entitled to share in the property and annuities of the band.

Decision of
Supt. Gen.

2. The decision of the Superintendent General in any such matter shall be final and conclusive, subject to an appeal to the Governor in Council. 50-51 V., c. 33, s. 1.

Reserves.

Reserves to
be subject to
this part

19. All reserves for Indians, or for any band of Indians, or held in trust for their benefit, shall be deemed to be reserved and held for the same purposes as they were held heretofore, but shall be subject to the provisions of this Part. R.S., c. 43, s. 14.

Surveys,
plans, re-
ports and
subdivision
into lots of
reserves
may be
authorized

20. The Superintendent General may authorize surveys, plans and reports to be made of any reserve for Indians, showing and distinguishing the improved lands, the forests and lands fit for settlement, and such other information as is required; and may authorize the whole or any portion of a reserve to be subdivided into lots. R.S., c. 43, s. 15.

21. No Indian shall be deemed to be lawfully in possession of any land in a reserve, unless he has been or is located for the same by the band, or council of the band, with the approval of the Superintendent General; but no Indian shall be disposed of any land on which he has improvements, without receiving compensation for such improvements, at a valuation approved by the Superintendent General, from the Indian who obtains the land, or from the funds of the band, as is determined by the Superintendent General: Provided that prior to the location of an Indian under this section, in the province of Manitoba, Saskatchewan or Alberta, or the Territories, the Indian commissioner may issue a certificate of occupancy to any Indian belonging to a band residing upon a reserve in the aforesaid provinces or territories, of so much land, not exceeding in any case one hundred and sixty acres, as the Indian, with the approval of the commissioner, selects.

Possession
of land in
reserve.

Improve-
ments.

Certificate of
Indian Com-
missioner.

2. Such certificate may be cancelled at any time by the Indian commissioner, but shall, while it remains in force, entitle the holder thereof, as against all others, to lawful possession of the lands described therein. R.S., c. 43, s. 16; 53 V., c. 29, s. 2.

Cancellation
of certificate
by the
Indian Com-
missioner.

22. When the Superintendent General approves of any location as aforesaid, he shall issue, in triplicate, a ticket granting a location title to such Indian, one triplicate of which he shall retain in a book to be kept for the purpose; and the other two of which he shall forward to the local agent.

Location
ticket in
triplicate.

2. The local agent shall deliver to the Indian in whose favour it is issued one of such duplicates so forwarded, and shall cause the other to be copied into a register of the band, provided for the purpose, and shall file the same. R.S., c. 43, s. 17.

Delivery of
ticket to
Indian.

23. The conferring of any such location title shall not have the effect of rendering the land covered thereby subject to seizure under legal process, and such title shall be transferable only to an Indian of the same band, and then only with the consent and approval of the Superintendent General, whose consent and approval shall be given only by the issue of a ticket, in the manner prescribed in the last preceding section. R.S., c. 43, s. 18.

Effect of
such ticket
limited.

24. Every Indian and every non-treaty Indian, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or the Territories, who had, previously to the selection of a reserve, possession of and who has made permanent improvements on a plot of land which upon such selection becomes included in, or surrounded by, a reserve, shall have the same privileges, in respect of such plot, as an Indian enjoys who holds under a location title. R.S., c. 42, s. 19.

Privileges of
Indians
having im-
proved lands
included in
reserves in
certain
provinces.

Descent of Property.

Indians
may devise
property
by will.

25. Indians may devise or bequeath property of any kind in the same manner as other persons: Provided that no will purporting to dispose of land in a reserve or any interest therein shall be of any force or effect unless or until the will has been approved by the Superintendent General, and that if a will be disapproved by the Superintendent General the Indian making the will shall be deemed to have died intestate; and the Superintendent General may approve of a will generally and disallow any disposition thereby made of land in a reserve or of any interest in such land, in which case the will so approved shall have force and effect except so far as such disallowed disposition is concerned, and the Indian making the will shall be deemed to have died intestate as to the land or interest the disposition of which is so disallowed.

Land
devised or
bequeathed
to non-
resident
to be sold.

2. No one who is not entitled to reside on the reserve shall by reason of any devise or bequest or by reason of any intestacy be entitled to hold land in a reserve, but any land in a reserve devised by will or devolving on an intestacy, to some one not entitled to reside on the reserve, shall be sold by the Superintendent General to some member of the band and the proceeds thereof shall be paid to such devisee or heir. 57-58 V., c. 32, s. 1, 8-9 Geo. V., c. 26, s. 1.

Distribution
of estate in
case of
intestacy.

26. Upon the death of an Indian intestate, his property of all kinds, real and personal, movable and immovable, including any recognized interest he may have in land in a reserve, shall descend as follows:—

One-third
to widow.

(a) one-third of the inheritance shall devolve upon his widow, if she is a woman of good moral character, and the remainder upon his children, if all are living, or, if any who are dead have died without issue; or,

Otherwise
children
inherit the
whole.

(b) If there is no widow, or if the widow is not of good moral character, the whole inheritance shall devolve upon his children in equal shares, if all are living, or, if any who are dead have died without issue;

Representa-
tion of
defunct heir

(c) If one or more of the children are living, and one or more are dead, having had lawful issue, the inheritance so far as the same does not descend to the widow, shall devolve upon the children who are living, and the descendants of such children as have died, so that each child who is living shall receive such share as would have descended to him if all the children of the intestate who have died leaving issue had been living, and so that the descendants of each child who is dead shall inherit in equal shares the share which their parent would have received if living;

Inheritance
per stripes.

(d) If the descendants of the intestate entitled to share in the inheritance are of unequal degrees of consanguinity to the intestate, the inheritance shall devolve so that those who are in the nearest degree of consanguinity shall take the

shares which would have descended to them, had all the descendants in the same degree of consanguinity who have died leaving issue, been living, and so that the issue of the descendants who have died shall respectively take the shares which their parents, if living, would have received: Proviso. Provided that the Superintendent General may, in his discretion direct that the widow, if she is of good moral character, shall have the right, during her widowhood, to occupy any land in the reserve of the band to which the deceased belonged of which he was the recognized owner, and to have the use of any property of the deceased, for which, under the provision of this Part, he was not liable to taxation.

2. The Superintendent General shall be the sole and final judge as to the moral character of the widow of any intestate Indian. 57-58 V., c. 32, s. 1. Supt. Gen. sole judge of character of widow.

27. During the minority of the children of an Indian who dies intestate, the administration and charge of the property to which they are entitled as aforesaid shall devolve upon the widow, if any, of the intestate, if she is of good moral character; and, in such case, as each male child attains the age of twenty-one years, and as each female child attains that age, or with the consent of the widow, marries before that age, the share of such child shall, subject to the approval of the Superintendent General, be conveyed or delivered to him or her. Administration of property of minors.

2. The Superintendent General may, at any time, remove the widow from such administration and charge and confer the same upon some other person, and, in like manner, may remove such other person and appoint another, and so, from time to time, as occasion requires. Removal of widow from administration.

3. The Superintendent General may, whenever there are minor children, appoint a fit and proper person to take charge of such children and their property, and may remove such person and appoint another, and so, from time to time, as occasion requires. 57-58 V., c. 32, s. 1. Appointment of guardians to minors.

27A. The Superintendent General may appoint a person or persons to administer the estate of any deceased Indian and may make such general regulations and such orders in particular cases as he deems necessary to secure the satisfactory administration of such estates. 4-5 Geo. V., c. 35, s. 5. Administering Indian estates.

28. In case any Indian dies intestate without issue leaving a widow of good moral character, all his property of whatever kind shall devolve upon her, and if he leaves no widow the same shall devolve upon the Indian nearest of kin to the deceased: Provided that any interest which he may have had in land in a reserve shall be vested in His Majesty for the benefit of the band owning such reserve if his nearest of kin is more remote than a brother or sister. 57-58 V., c. 32, s. 1. Death of Indian without issue, widow to inherit, otherwise nearest of kin to inherit.

Property of a
married
Indian
woman.

29. The property of a married Indian woman who dies intestate shall descend in the same manner and be distributed in the same proportions as that of a male Indian who dies intestate, her widower, if any, taking the share which the widow of such male Indian would take.

Idem.

2. The other provisions of this Part respecting the descent of property shall in like manner apply to the case of an intestate married woman, the word widower being substituted for the word widow in each case.

Idem.

3. The property of an unmarried Indian woman who dies intestate shall descend in the same manner as if she had been a male. 57-58 V., c. 32, s. 1.

In any case
location
ticket
requisite for
possession
by heir.

30. A claimant of land in a reserve or of any interest therein as devisee or legatee or heir of a deceased Indian shall not be held to be lawfully in possession thereof or to be the recognized owner thereof until he shall have obtained a location ticket therefor from the Superintendent General. 57-58 V., c. 32, s. 1.

Superinten-
dent General
to decide
disputes.

31. The Superintendent General may decide all questions which arise under this Part, respecting the distribution among those entitled thereto of the property of a deceased Indian, and he shall be the sole and final judge as to who the persons so entitled are.

His powers.

2. The Superintendent General may do whatsoever in his judgment will best give to each claimant his share according to the true intent and meaning of this Part, and to that end, if he thinks fit, may direct the sale, lease or other disposition of such property or any part thereof, and the distribution or application of the proceeds or income thereof, regard being always had in any such disposition to the restriction upon the disposition of property in a reserve. 57-58 V., c. 32, s. 1.

Probate and
letters of
administra-
tion.

32. Notwithstanding anything in this Part it shall be lawful for the courts having jurisdiction in that regard in the case of persons other than Indians, with but not without the consent of the Superintendent General, to grant probate of the wills of Indians and letters of administration of the estate and effects of intestate Indians, in which case such courts and the executors and administrators obtaining such probate, or thereby appointed, shall have the like jurisdiction and powers as in other cases, except that no disposition shall, without the consent of the Superintendent General, be made of or dealing had with regard to any right or interest in land in a reserve or any property for which, under the provisions of this Part, an Indian is not liable to taxation. 57-58 V., c. 32, s. 1.

Trespassing on Reserves.

Only Indians
of the band
to reside
on the
reserve.

33. No person, or Indian other than an Indian of the band, shall without the authority of the Superintendent General, reside or hunt upon, occupy or use any land or marsh, or reside upon

or occupy any road, or allowance for road, running through any reserve belonging to or occupied by such band.

2. All deeds, leases, contracts, agreements or instruments of whatsoever kind made, entered into, or consented to by any Indian, purporting to permit persons or Indians other than Indians of the band to reside or hunt upon such reserve, or to occupy or use any portion thereof, shall be void. 57-58 V., c. 32, s. 2. Certain contracts, etc., to be void.

34. If any Indian is illegally in possession of any land on a reserve, or if any person, or Indian other than an Indian of the band, without the license of the Superintendent General,— Removal of trespassers and their cattle, etc.

- (a) settles, resides or hunts upon, occupies, uses, or causes or permits any cattle or other animals owned by him, or in his charge, to trespass on any such land or marsh; or,
- (b) fishes in any marsh, river, stream or creek on or running through a reserve; or,
- (c) settles, resides upon or occupies any road, or allowance for road, on such reserve;

the Superintendent General or such other officer or person as he thereunto deposes and authorizes, shall, on complaint made to him, and on proof of the fact to his satisfaction, issue his warrant, signed and sealed, directed to any literate person willing to act in the premises, commanding him forthwith as the case may be,— Warrant.

- (a) to remove from the said land, marsh or road, or allowance for road, every such person or Indian and his family, so settled, or who is residing or hunting upon, or occupying, or is illegally in possession of the same; or,
- (b) to remove such cattle or other animals from such land or marsh; or,
- (c) to cause such person or Indian to cease fishing in any marsh, river, stream or creek, as aforesaid; or,
- (d) to notify such person or Indian to cease using, as aforesaid the said lands, rivers, streams, creeks or marshes, roads or allowance for roads.

2. The person to whom such warrant is directed, shall execute the same, and, for that purpose, shall have the same powers as in the execution of criminal process. Execution.

3. The expenses incurred in any such removal or notification, or causing to cease fishing, shall be borne, as the case may be, by the person removed or notified, or caused to cease fishing, or who owns the cattle or other animals removed, or who has them in charge, and may be recovered from him as the costs in any ordinary action or suit, or if the trespasser is an Indian, such expenses may be deducted from his share of annuity and interest money, if any such are due to him. Costs.

4. Any such person or Indian other than an Indian of the band may be required orally or in writing by an Indian agent, a Removal.

chief of the band occupying the reserve, or a constable, as the case may be,—

- (a) to remove with his family, if any, from the land, marsh or road, or allowance for road, upon which he is or has so settled, or is residing or hunting, or which he so occupies; or,
- (b) to remove his cattle from such land or marsh; or
- (c) to cease fishing in any such marsh, river, stream or creek as aforesaid; or,
- (d) to cease using as aforesaid any such land, river, stream, creek, marsh, road or allowance for road. R.S., c. 43, s. 22; 54-55 V., c. 30, s. 1.

Removal and
punishment
of persons
returning
after having
been
removed.

35. If any person or Indian, after he has been removed or notified as aforesaid, or after any cattle or other animals owned by him or in his charge have been removed as aforesaid,—

- (a) returns to, settles, resides or hunts upon or occupies or uses as aforesaid any of the said land or marsh; or,
- (b) causes or permits any cattle or other animals owned by him or in his charge to return to any of the said land or marsh; or,
- (c) returns to any marsh, river, stream or creek on or running through a reserve, for the purpose of fishing therein; or,
- (d) returns to, settles or resides upon or occupies any of the said roads or allowances for roads;

the Superintendent General, or any officer or person deputed or authorized, as aforesaid, upon view, or upon proof on oath before him, to his satisfaction, that the person or Indian has,—

- (a) returned to, settled, resided or hunted upon or occupied or used as aforesaid any of the said lands or marshes; or,
- (b) caused or permitted any cattle or other animals owned by him, or in his charge, to return to any of the said land or marsh; or,
- (c) returned to any marsh, river, stream or creek on or running through a reserve for the purpose of fishing therein; or,
- (d) returned to, settled or resided upon or occupied any of the said roads or allowances for roads;

Warrant to
sheriff to
arrest and
commit to
gaol.

shall direct and send his warrant, signed and sealed to the sheriff of the proper county or district, or to any literate person therein, commanding him forthwith to arrest such person or Indian, and bring him before any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, who may, on summary conviction, commit him to the common gaol of the said county or district, or if there is no gaol in the said county or district, or if the reserve is not situated within any county or district, then the gaol nearest to the said reserve in the province, there to remain for the time ordered in the warrant of commitment.

2. The length of imprisonment aforesaid shall not exceed thirty days for the first offence, and thirty days additional for each subsequent offence. Limit of imprisonment.

3. If the said reserve is not situated within any county or district, such warrant shall be directed and sent to some literate person within such reserve. R.S., c. 43, s. 23. Direction of warrant.

36. Such sheriff or other person shall accordingly arrest the said person or Indian, and deliver him to the keeper of the proper gaol, who shall receive such person or Indian, and imprison him in the said gaol for the term aforesaid. R.S., c. 43, s. 24. Arrest and imprisonment.

37. The Superintendent General, or such officer or person aforesaid, shall cause the judgment or order against the offender to be drawn up and filed in his office. Judgment to be drawn up and filed.

2. Such judgment shall not be appealed from, or removed by *certiorari* or otherwise, but shall be final. R.S., c. 43, s. 25. Final.

37A. If the possession of any lands reserved or claimed to be reserved for Indians, or of any lands of which the Indians or any Indian or any band or tribe of Indians claim the possession or any right of possession, is withheld, or if any such lands are adversely occupied or claimed by any person, or if any trespass is committed thereon, the possession may be recovered for the Indians or Indian or band or tribe of Indians, or the conflicting claims may be adjudged and determined or damages may be recovered in an action at the suit of His Majesty on behalf of the Indians or Indian or of the band or tribe of Indians entitled to or claiming the possession or right of possession or entitled to or claiming the declaration, relief or damages. Recovery of possession of reserves withheld or adversely occupied.

2. The Exchequer Court of Canada shall have jurisdiction to hear and determine any such action. Damages.

3. Any such action may be instituted by information of the Attorney General of Canada upon instructions of the Superintendent General of Indian Affairs. Exchequer Court jurisdiction.

4. Nothing in this section shall impair or in anywise affect any existing remedy or mode of procedure provided for cases, or any of them, to which this section applies. 9-10 Ed. VII, c. 28, s. 1; 1-2 Geo. V., c. 14, s. 4. Attorney General may institute proceedings.

Sale or Barter.

38. The Governor in Council may make regulations for prohibiting or regulating the sale, barter, exchange or gift by any band or irregular band of Indians, or by any Indian of any band, or irregular band, in the provinces of Manitoba, Saskatchewan or Alberta, or the Territories, of any grain or root crops, or other produce grown upon any reserve, and may further provide that such sale, barter, exchange or gift shall be null and void, unless the same are made in accordance with such regulations. R.S., c. 43, s. 30. Existing remedies preserved.

Governor in Council may make regulations as to sale or barter of produce by Indian.

Buying of
produce pro-
hibited.

39. No person shall buy or otherwise acquire from any band or irregular band of Indians, or from any Indian, any grain, root crops, or other produce grown upon any reserve in the provinces of Manitoba, Saskatchewan or Alberta, or the Territories. R.S., c. 43, s. 30.

Superinten-
dent General
may order
seizure of
produce
unlawfully
possessed by
any person.

40. If any such grain or root crops, or other produce as aforesaid, are unlawfully in the possession of any person within the intent and meaning of this Part, or of any regulations made by the Governor in Council under this Part, any person acting under the authority, either general or special, of the Superintendent General may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same; and he shall deal therewith as the Superintendent General, or any officer or person thereunto by him authorized, directs. R.S., c. 42, s. 31.

Governor in
Council may
prohibit
cutting of
trees on
reserve.

41. The Governor in Council may make regulations for prohibiting the cutting, carrying away or removing from any reserve or special reserve, of any hard or sugar-maple tree or sapling. R.S., c. 43, s. 32.

Trading with
Indians pro-
hibited with-
out license of
Superinten-
dent General.

42. No official or employee connected with the inside or outside service of the Department of Indian Affairs, and no missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians, and no school teacher on an Indian reserve, shall, without the special license in writing of the Superintendent General, trade with any Indian, or sell to him directly or indirectly, any goods or supplies, cattle or other animals.

Revocation
of license.

2. The Superintendent General may at any time revoke the license so given by him. 53 V., c. 29, s. 10; 57-58 V., c. 32, s. 10.

Bartering
with Indians
without a
license pro-
hibited.

43. No person shall barter directly or indirectly with any Indian on a reserve in the provinces of Manitoba, Saskatchewan or Alberta, or the Territories, or sell to any such Indian any goods or supplies, cattle or other animals without the special license in writing of the Superintendent General.

Revocation
of license.

2. The Superintendent General may, at any time, revoke the license by him given.

Evidence.

3. Upon prosecution of any offender against the provisions of this and the last preceding section, the evidence of the Indian to whom the same was made, and the production to, or view by, the magistrate or Indian agent of the article or animal sold, shall be sufficient evidence on which to convict. 53 V., c. 29, s. 10.

Roads and Bridges.

44. Indians residing upon any reserve shall be liable, if so directed by the Superintendent General, or any officer or person by him thereunto authorized, to perform labour upon the public roads laid out or used in or through, or abutting upon such reserve, which labour shall be performed under the sole control of the Superintendent General, or officer or person aforesaid, who may direct when, where and how and in what manner such labour shall be applied, and to what extent the same shall be imposed upon any Indian who is a resident upon the reserve.

Indians
liable to
work on
public roads
on reserves
and to what
extent.

2. The Superintendent General, or person or officer aforesaid, shall have the like power to enforce the performance of such labour by imprisonment or otherwise, as may be done by any power or authority under any law, rule or regulation in force in the province or territory in which such reserve is situate, for the non-performance of statute labour; but the labour to be so required of any such Indian shall not exceed in amount or extent what may be required of other inhabitants of the same province, territory, county or other local division, under the laws requiring and regulating such labour and the performance thereof. 61 V., c. 34, s. 1.

Powers of
Superinten-
dent General.

45. Every band of Indians shall cause the roads, bridges, ditches and fences within its reserve to be put and maintained in proper order, in accordance with the instructions received, from time to time, from the Superintendent General, or from the agent of the Superintendent General.

Band to
cause roads
to be kept
in order.

2. Whenever in the opinion of the Superintendent General, such roads, bridges, ditches and fences are not so put or maintained in order, he may cause the work to be performed at the cost of the band, or of the particular Indian in default, as the case may be, either out of its or his annual allowances or otherwise. R.S., c. 43, s. 34.

Work may
be done at
cost of band.

Lands taken for public purposes.

46. No portion of any reserve shall be taken for the purpose of any railway, road, public work, or work designed for any public utility without the consent of the Governor in Council, but any company or municipal or local authority having statutory power, either Dominion or provincial, for taking or using such lands or any interest in lands without the consent of the owner may, with the consent of the Governor in Council as aforesaid, and subject to the terms and conditions imposed by such consent, exercise such statutory power with respect to any reserve or portion of a reserve; and in any such case compensation shall be made therefor to the Indians of the band, and the exercise of such power and the taking of the lands or interest therein and the determination and payment of the compensation shall, unless otherwise provided in the Order in Council evidence-

Compensa-
tion for
lands taken
for public
purposes.

ing the consent of the Governor in Council, be governed by the requirements applicable to the like proceedings by such company, municipal or local authority in ordinary cases.

Arbitration.

2. The Superintendent General shall, in any case in which an arbitration is had, name the arbitrator on behalf of the Indians, and shall act for them in any matter relating to the settlement of such compensation.

Payment.

3. The amount awarded in any case shall be paid to the Minister of Finance for the use of the band of Indians for whose benefit the reserve is held, and for the benefit of any Indian who has improvements taken or injured. R.S., c. 43, s. 35; 50-51 V., c. 33, s. 5. 1-2 Geo. V., c. 14, s. 1.

Surrender and Forfeiture of Lands in Reserve.

Title to vest in His Majesty, if title of reserves held in trust lapses.

47. If, by the violation of the conditions of any trust respecting any special reserve, or by the breaking up of any society, corporation or community, or, if by the death of any person or persons without a legal succession or trusteeship, in whom the title to a special reserve is held in trust, the said title lapses or becomes void in law, the legal title shall become vested in His Majesty in trust, and the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve.

Surrender of certain reserves to His Majesty in trust.

2. The trustees of any special reserve may, at any time, surrender the same to His Majesty in trust, whereupon the property shall be managed for the band or irregular band previously interested therein as an ordinary reserve. R.S., c. 43, s. 37.

Sale or release of reserves.

48. Except as in this Part otherwise provided, no reserve or portion of a reserve, shall be sold, alienated or leased until it has been released or surrendered to the Crown for the purposes of this Part: Provided that the Superintendent General may lease, for the benefit of any Indian, upon his application for that purpose, the land to which he is entitled without such land being released or surrendered, and may, without surrender, dispose to the best advantage, in the interests of the Indians, of wild grass and dead or fallen timber.

Proviso.

Leases of surface rights may be granted in connection with mining for precious metals.

2. Provided also that the Governor in Council may make regulations enabling the Superintendent General without surrender to issue leases for surface rights on an Indian reserve, upon such terms and conditions as may be considered proper in the interest of the Indians covering such area only as may be necessary for the mining of the precious metals by any one otherwise authorized to mine such metals, said terms to include provision of compensating any occupant of land for any damage that may be caused thereon as determined by the Superintendent General 61 V., c. 34, s. 2; 9-10 Geo. V., c. 56, s. 1.

49. Except as in this Part otherwise provided, no release or surrender of a reserve, or a portion of a reserve, held for the use of the Indians of any band, or of any individual Indian, shall be valid or binding, unless the release or surrender shall be assented to by a majority of the male members of the band of the full age of twenty-one years, at a meeting or council thereof summoned for that purpose, according to the rules of the band, and held in the presence of the Superintendent General, or of an officer duly authorized to attend such council, by the Governor in Council or by the Superintendent General.

Release or
surrender of
a reserve,
when valid.

Assent of
band.

2. No Indian shall be entitled to vote or be present at such council, unless he habitually resides on or near, and is interested in the reserve in question.

Who may
vote.

3. The fact that such release or surrender has been assented to by the band at such council or meeting shall be certified on oath by the Superintendent General, or by the officer authorized by him to attend such council or meeting, and by some of the chiefs or principal men present thereat and entitled to vote, before any person having authority to take affidavits and having jurisdiction within the place where the oath is administered.

Proof of
assent to
release or
surrender.

4. When such assent has been so certified, as aforesaid, such release or surrender shall be submitted to the Governor in Council for acceptance or refusal. R.S., c. 43, s. 39; 61 V., c. 34, s. 3; 8-9 Geo. V., c. 26, s. 2.

Approval of
Governor in
Council.

49A. In the case of an Indian reserve which adjoins or is situated wholly or partly within an incorporated town or city having a population of not less than eight thousand, and which reserve has not been released or surrendered by the Indians, the Governor in Council may, upon the recommendation of the Superintendent General, refer to the judge of the Exchequer Court of Canada for inquiry and report the question as to whether it is expedient, having regard to the interest of the public and of the Indians of the band for whose use the reserve is held, that the Indians should be removed from the reserve or any part of it.

Inquiry and
report by
Exchequer
Court as to
removal of
Indians.

2. The Order in Council made in the case shall be certified by the Clerk of the Privy Council to the registrar of the Exchequer Court of Canada, and the judge of the Court shall thereupon proceed as soon as convenient to fix a time and place, of which due notice shall be given by publication in *The Canada Gazette*, and otherwise as may be directed by the judge, for taking the evidence and hearing and investigating the matter.

Order in
Council.

Notice of
inquiry.

3. The judge shall have the like powers to issue subpoenas, compel the attendance and examination of witnesses, take evidence, give directions, and generally to hear and determine the matter and regulate the procedure as in proceedings upon information by the Attorney General within the ordinary jurisdiction of the court, and shall assign counsel to represent and act for the Indians who may be opposed to the proposed removal.

Powers of
Court.

Counsel.

Compensation for special loss and damages to be ascertained.

4. If the judge finds that it is expedient that the band of Indians should be removed from the reserve or any part of it, he shall proceed, before making his report, to ascertain the amounts of compensation, if any, which should be paid respectively to individual Indians of the band for the special loss or damages which they will sustain in respect of the buildings or improvements to which they are entitled upon the lands of the reserve for which they are located; and the judge shall, moreover, consider and report upon any of the other facts or circumstances of the case which he may deem proper or material to be considered by the Governor in Council.

Transmission of proceedings.

5. The judge shall transmit his findings, with the evidence and a report of the proceedings, to the Governor in Council, who shall lay a full report of the proceedings, the evidence and the findings before Parliament at the then current or next ensuing session thereof, and upon such findings being approved by resolution of Parliament the Governor in Council may thereupon give effect to the said findings and cause the reserve, or any part thereof from which it is found expedient to remove the Indians, to be sold or leased by public auction after three months advertisement in the public press, upon the best terms which, in the opinion of the Governor in Council, may be obtained therefor.

Sale of lease of lands.

Disposition of proceeds.

6. The proceeds of the sale or lease, after deducting the usual percentage for management fund, shall be applied in compensating individual Indians for their buildings or improvements as found by the judge, in purchasing a new reserve for the Indians removed, in transferring the said Indians with their effects thereto, in erecting buildings upon the new reserve, and in providing the Indians with such other assistance as the Superintendent General may consider advisable; and the balance of the proceeds, if any, shall be placed to the credit of the Indians: Provided that the Government shall not cause the Indians to be removed, or disturb their possession, until a suitable reserve has been obtained and set apart for them in lieu of the reserve from which the expediency of removing the Indians is so established as aforesaid.

Proviso.

New reserve.

Expropriation of land for new reserve.

7. For the purpose of selecting, appropriating and acquiring the lands necessary to be taken, or which it may be deemed expedient to take, for any new reserve to be acquired for the Indians as authorized by the last preceding subsection, whether they are Crown lands or not, the Superintendent General shall have all the powers conferred upon the Minister by *The Expropriation Act*, and such new reserve shall, for the purposes aforesaid, be deemed to be a public work within the definition of that expression in *The Expropriation Act*; and all the provisions of *The Expropriation Act*, in so far as applicable and not inconsistent with this Act, shall apply in respect of the proceedings for the selection, survey, ascertainment and acquisition of the lands required and the determination and payment of the com-

pensation therefor: Provided, however, that the Superintendent General shall not exercise the power of expropriation unless authorized by the Governor in Council. 1-2 Geo. V., c. 14, s. 2. Provision

50. Nothing in this Part shall confirm any release or surrender which, but for this Part, would have been invalid; and no release or surrender of any reserve, or portion of a reserve, to any person other than His Majesty, shall be valid. R.S., c. 43, s. 40. Are not to confirm invalid release or surrenders.

51. All Indian lands which are reserves or portions of reserves surrendered, or to be surrendered, to His Majesty, shall be deemed to be held for the same purpose as heretofore; and shall be managed, leased and sold as the Governor in Council directs, subject to the conditions of surrender and the provisions of this Part. R.S., c. 43, s. 41. Indian lands to be held for the same purpose as heretofore.

Sale and Transfer of Indian Lands.

52. Every certificate of sale or receipt for money received on the sale of Indian lands granted or made by the Superintendent General or any agent of his, so long as the sale to which such certificate or receipt relates is in force and not rescinded, shall entitle the person to whom the same is granted, or his assignee, by instrument registered under this or any former Act providing for registration in such cases, to take possession of and occupy the land therein comprised, subject to the conditions of such sale, and unless the same has been revoked or cancelled, to maintain thereunder actions and suits against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown; but the same shall have no force against a license to cut timber existing at the time of the granting or making thereof. Effect of former certificate of sale or receipts.

2. Such certificate or receipt shall be *prima facie* evidence of possession by such person, or the assignee, under an instrument registered as aforesaid in any such action or suit. R.S., c. 43, s. 42. Evidence of possession

53. The Superintendent General shall keep a book for registering, at the option of the persons interested, the particulars of any assignment made, as well by the original purchaser or lessee of Indian lands, or his heirs or legal representatives, as by any subsequent assignee of any such lands, or the heir or legal representatives of such assignee. R.S., c. 43, s. 43. Register of assignments to be kept

54. Upon any such assignment being produced to the Superintendent General, and except in cases where such assignment is made under a corporate seal, with an affidavit of due execution thereof, and of the place of such execution, and the names, residences and occupations of the witnesses, or, as to lands in the province of Quebec, upon the production of any such assignment executed in notarial form, or of a notarial copy thereof, the Registration of assignments

Superintendent General shall cause the material parts of the assignment to be registered in the said book, and shall cause to be endorsed on the assignment a certificate of such registration signed by himself or by the Deputy Superintendent General, or any other officer of the Department by him authorized to sign such certificates. 53 V., c. 29, s. 4.

Effect of
assignment
and registra-
tion.

55. Every such assignment so registered shall be valid against any assignment previously executed, which is subsequently registered or is unregistered.

Require-
ments.

2. No such registration shall be made until all the conditions of the sale, grant or location are complied with or dispensed with by the Superintendent General.

Uncon-
ditional.

3. Every assignment registered as aforesaid shall be unconditional in its terms. R.S., c. 43, s. 43.

Proof for
registration.

56. If any subscribing witness to any such assignment is dead, or is absent from Canada, the Superintendent General may register such assignment upon the production of an affidavit proving the death or absence of such witness, and his handwriting or the handwriting of the person making such assignment. R.S., c. 43, s. 44.

Agents not
to be inter-
ested in or
owners of
Indian lands.

57. No agent for the sale of Indian lands shall, within his division, directly or indirectly, except under an order of the Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency; and every such purchase or interest shall be void. R.S., c. 43, s. 110.

Tax Sale.

Conveyance
of lands sold
for taxes.

58. Whenever the proper municipal officer having, by the law of the province in which the land affected is situate, authority to make or execute deeds or conveyances of lands sold for taxes, makes or executes any deed or conveyance purporting to grant or convey Indian lands which have been sold or located, but not patented, or the interest therein of the locatee or purchaser from the Crown, and such deed or conveyance recites or purports to be based upon a sale of such lands or such interest for taxes, the Superintendent General may approve of such deed or conveyance, and act upon and treat it as a valid transfer of all the right and interest of the original locatee or purchaser from the Crown, and of every person claiming under him in or to such land to the grantee named in such deed or conveyance.

Superinten-
dent General
may approve

Effect of
such ap-
proval.

2. When the Superintendent General has signified his approval of such deed or conveyance by endorsement thereon, the grantee shall be substituted in all respects, in relation to the land so conveyed, for the original locatee or purchaser from the Crown, but no such deed or conveyance shall be deemed to confer upon the grantee any greater right or interest in the land

than that possessed by the original locatee or purchaser from the Crown. 51 V., c. 22, s. 2.

59. The Superintendent General may cause a patent to be issued to the grantee named in such deed or conveyance on the completion of the original conditions of the location or sale, unless such deed or conveyance is declared invalid by a court of competent jurisdiction in a suit or action instituted by some person interested in such land within two years after the date of the sale for taxes, and unless within such delay notice of such contestation has been given to the Superintendent General. 51 V., c. 22, s. 2.

Issue of patent.

60. Every such deed or conveyance shall be registered in the office of the Superintendent General within two years from the date of the sale of taxes; and unless the same is so registered, it shall not be deemed to have preserved its priority as against a purchaser in good faith from the original locatee or purchaser from the Crown, in virtue of an assignment registered prior to the date of the registration of the deed or conveyance based upon a sale for taxes as aforesaid. 51 V., c. 22, s. 2.

Time for registration.

Cancellation.

61. If the Superintendent General is satisfied that any purchaser or lessee of any Indian lands, or any person claiming under or through him, has been guilty of any fraud or imposition, or has violated any of the conditions of the sale or lease, or if any such sale or lease has been made or issued in error or mistake, he may cancel such sale or lease and resume the land therein mentioned, or dispose of it as if no sale or lease thereof had ever been made. R.S., c. 43, s. 46.

In cases of fraud, mistake, or non-observance of conditions.

Ejectment.

62. Whenever any purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale or lease thereof, as aforesaid, or whenever any person is wrongfully in possession of any Indian lands and refuses to vacate or abandon possession of the same, the Superintendent General may apply to the judge of the county court of the county or district in which the land lies, or to any judge of a superior court, or in the Northwest Territories to any stipendiary magistrate, for an order in the nature of a writ of *habere facias possessionem*, or writ of possession.

Obtaining possession after such cancellation, in case of resistance.

2. The said judge or magistrate, upon proof to his satisfaction that the right or title of the person to hold such land has been revoked or cancelled, as aforesaid, or that such person is wrongfully in possession of Indian lands, shall grant an order requiring the purchaser, lessee or person in possession to deliver up the same to the Superintendent General, or person by him authorized to receive such possession.

Order as to writ of possession.

Effect.

3. The order shall have the same force as a writ of *habere facias possessionem*, or writ of possession.

Execution of order.

4. The sheriff, or any bailiff or person to whom it has been entrusted for execution by the Superintendent General, shall execute the same in like manner as he would execute such writ in an action of ejectment or a possessory action.

Costs.

5. The costs of and incident to any proceedings under this section or any part thereof shall be paid by any party to such proceedings or by the Superintendent General, as the judge or magistrate orders. R.S., c. 43, s. 47; 54-55 V., c. 30, s. 3.

Rent.

Enforcing payment of rent due to the Crown.

63. Whenever any rent payable to the Crown on any lease of Indian lands is in arrear, the same may be recovered,—

- (a) by warrant of distress issued by the Superintendent General or any agent or officer appointed under this Part and authorized by the Superintendent General to act in such cases, and with like proceedings thereon as in ordinary cases of landlord and tenant directed to any person or persons by him named therein; or
- (b) by warrant of distress, and with like proceedings thereon as in case of a distress warrant by a justice of the peace for non-payment of a pecuniary penalty issued by him and directed as aforesaid; or
- (c) by action of debt, as in ordinary cases of rent in arrear, brought therefor in the name of the Superintendent General.

No demand required.

2. Demand of rent shall not be necessary in any case. R.S., c. 43, s. 48.

Powers of Superintendent General.

To act and give notice for the Crown.

64. When by law or by any deed, lease or agreement relating to Indian lands, any notice is required to be given, or any act to be done by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Superintendent General. R.S., c. 43, s. 49.

Cases of deficiency of land.

65. Whenever it is found that, by reason of false survey or error in the books or plans in the Department of Indian Affairs, or in the late Indian branch of the Department of the Interior, any grant, sale or appropriation of land is deficient, or whenever any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Superintendent General may order the purchase money of so much land as is deficient with the interest thereon from the time of the application therefor to be paid to the original purchaser in land or money as the Superintendent General directs.

2. If the land has passed from the original purchaser, and the claimant was ignorant of a deficiency at the time of his purchase, the Superintendent General may order payment as aforesaid of the purchase money for so much of the land as is deficient which the claimant has paid. Correction.

3. No such claim shall be entertained unless application is made within five years from the date of the patent, and unless the deficiency is equal to one-tenth of the whole quantity described as contained in the particular lot or parcel of land granted. R.S., c. 43, s. 52. Limitation of time for claim.

66. The Superintendent General may, from time to time, by public notice, declare that, on and after a day therein named, the laws respecting game in force in the province of Manitoba, Saskatchewan or Alberta, or the Territories, or respecting such game as is specified in such notice, shall apply to Indians within the said province or Territories, as the case may be, or to Indians in such parts thereof as to him seems expedient. 53. V., c. 29, s. 10. Game laws.

67. The Superintendent General, his deputy, or other person specially authorized by the Governor in Council, shall have power, by subpœna issued by him, to require any person or Indian to appear before him, and to bring with him any papers or writings relating to any matter affecting Indians, and to examine such person under oath in respect to any such matter. Witnesses may be summoned and examined under oath.

2. If any person or Indian duly summoned by subpœna as aforesaid neglects or refuses to appear at the time and place specified in the subpœna, or refuses to give evidence or to produce the papers or writings demanded of him, the Superintendent General, his deputy or such other person may, by warrant under his hand and seal, cause such person or Indian so refusing or neglecting to be taken into custody and to be imprisoned in the nearest common gaol as for contempt of court, for a period not exceeding fourteen days. 50-51 V., c. 33, s. 2; 8-9 Geo. V., c. 26, s. 3. Failure of witness to appear

Patents.

68. Every patent for Indian lands shall be prepared in the Department of Indian Affairs, and shall be signed by the Superintendent General or his deputy or by some other person thereunto specially authorized by order of the Governor in Council, and, when so signed, shall be registered by an officer specially appointed for that purpose by the Registrar General, and then transmitted to the Secretary of State of Canada, by whom, or by the Under Secretary of State, the same shall be countersigned and the Great Seal thereto caused to be affixed: Provided that every such patent for land shall be signed by the Governor or by the Deputy Governor appointed under this Part for that purpose. R.S., c. 43, s. 45. Patents, how to be prepared, signed and registered. Proviso.

Patent to
issue to
heir,
assignee, or
devisee
after proof
of right
thereto.

Proviso.

69. On any application for a patent by the heir, assignee or devisee of the original purchaser from the Crown, the Superintendent General may receive proof, in such manner as he directs and requires, in support of any claim for a patent, when the original purchaser is dead; and upon being satisfied that the claim has been equitably and justly established, may allow the same, and cause a patent to be issued accordingly: Provided that nothing in this section shall limit the right of a person claiming a patent to land in the province of Ontario to make application at any time to the Commissioner, under the Act respecting claims to lands in Upper Canada for which no patents have been issued, being chapter eighty of the Consolidated Statutes of Upper Canada. R.S., c. 43, s. 45.

Cancellation
of erroneous
letters
patent.

70. Whenever letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer, or wrong description of any material fact therein, or of the land thereby intended to be granted, the Superintendent General, if there is no adverse claim, may direct the defective letters patent to be cancelled, and a minute of such cancellation to be entered in the margin of the registry of the original letters patent, and correct letters patent to be issued in their stead.

Issue of
correct ones
in their
stead.

2. Such correct letters patent shall relate back to the date of those so cancelled, and have the same effect as if issued at the date of such cancelled letters patent. R.S., c. 43, s. 50.

Inconsistent
patents of
the same
land.

71. In all cases in which grants or letters patent have issued for the same land, inconsistent with each other, through error, and in all cases of sales or appropriations of the same land, inconsistent with each other, the Superintendent General may, in cases of sale, cause a repayment of the purchase money, with interest.

Compensa-
tion in
certain cases.

2. When the land has passed from the original purchaser or has been improved before a discovery of the error, the Superintendent General may, in substitution, assign land or grant a certificate entitling the person to purchase Indian lands of such value, and to such extent as he deems just and equitable under the circumstances: Provided that no such claim shall be entertained unless it is preferred within five years from the discovery of the error. R. S., c. 43, s. 51.

Proviso.

Certain
courts may
void patents
issued in
error, etc.

72. Whenever patents for Indian lands have issued through fraud or in error or improvidence, the Exchequer Court of Canada or a superior court in any province may, in respect of lands situate within its jurisdiction, upon information, action, bill or plaint, respecting such lands, and upon hearing the parties interested, or upon default of the said parties after such notice of proceeding as the said courts shall respectively order, decree such patents to be void; and, upon a registry of such decree in the Department of Indian Affairs, such patents shall be void to all intents.

Effect of
registry of
decree.

2. The practice in such cases shall be regulated by orders, from time to time, made by the said courts, respectively. R.S., c. 43, s. 53; 53 V., c. 29, s. 5. Practice in such cases.

Timber Lands.

73. The Superintendent General, or any officer or agent authorized by him to that effect, may grant licenses to cut trees on ungranted Indian lands, or on reserves at such rates and subject to such conditions, regulations and restrictions, as are, from time to time, established by the Governor in Council, and such conditions, regulations and restrictions shall be adapted to the locality in which such reserves or lands are situated. R.S., c. 43, s. 54. Licenses to cut trees, by whom and how to be granted

74. No license shall be so granted for a longer period than twelve months from the date thereof; and if, in consequence of any incorrectness of survey or other error or cause whatsoever, a license is found to comprise land included in a license of a prior date, or land not being reserve, or ungranted Indian lands, the license granted shall be void in so far as it comprises such land, and the holder or proprietor of the license so rendered void shall have no claim upon the Crown for indemnity or compensation by reason of such avoidance. R.S., c. 43, s. 55. For what time. As to error in description, etc.

75. Every license shall describe the lands upon which the trees may be cut, and the kind of trees which may be cut, and shall confer, for the time being, on the licensee the right to take and keep possession of the land so described, subject to such regulations as are made. License must describe lands and kind of trees to be cut.

2. Every license shall vest in the holder thereof all rights of property in all trees of the kind specified, cut within the limits of the license during the term thereof, whether such trees are cut by the authority of the holder of such license or by any other person, with or without his consent. To vest property in trees cut.

3. Every license shall entitle the holder thereof to seize, in revendication or otherwise, such trees and the logs, timber and other product thereof, if found in the possession of any unauthorized person, and also to institute any action or suit against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment, and to recover damages, if any. Rights of licensee as to trespassers

4. All proceedings pending at the expiration of any license may be continued to final termination, as if the license had not expired. 61 V., c. 34, s. 4. Containing proceedings

76. Every person who obtains a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Superintendent General, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square or Return to be made by licensee.

other timber, manufactured and carried away under such license, which return shall be sworn to by the holder of the license or his agent, or by his foreman.

Effect of neglect to make such return.

2. Every person who refuses or neglects to make such return, or who evades, or attempts to evade, any regulation made by the Governor in Council in that behalf, shall be held to have cut without authority, and the timber or other product made shall be dealt with accordingly. R.S., c. 43, s. 57.

Trees cut and their product liable for payment of dues.

77. All trees cut, and the logs, timber or other product thereof, shall be liable for the payment of the dues thereon, so long as and wheresoever the same, or any part thereof, are found, whether in the original logs or manufactured into deals, boards or other stuff.

May be seized and detained.

2. All officers or agents entrusted with the collection of such dues may follow and seize and detain the same wherever they are found until the dues are paid or secured. R.S., c. 43, s. 58.

Security taken for dues not to affect lien.

78. No instrument or security taken for dues, either before or after the cutting of the trees, as collateral security, or to facilitate collection, shall in any way affect the lien for such dues, but the lien shall subsist until the said dues are actually discharged. R.S., c. 43, s. 59.

Sale of seized timber after certain delay.

79. If any timber so seized and detained for non-payment of dues remains more than twelve months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid, the Superintendent General may order a sale of the said timber to be made after sufficient notice.

Proceeds.

2. The net proceeds of such sale, after deducting the amount of dues, expenses, and costs incurred, shall be handed over to the owner or claimant of such timber upon his applying therefor and proving his right thereto. R.S., c. 43, s. 60.

Seizure of trees cut without authority.

80. Any officer or agent acting under the Superintendent General may seize or cause to be seized in His Majesty's name any logs, timber, wood or other products of trees, or any trees themselves, cut without authority on Indian lands or on a reserve, wherever they are found, and place the same under proper custody until a decision can be had in the matter from competent authority. 50-51 V., c. 33, s. 6.

Presumption of law in case of mixture of timber cut on Indian lands or reserves, with timber cut elsewhere.

81. When the logs, timber, wood, or other products of trees, or the trees themselves cut without authority on Indian lands or on a reserve, have been made up or intermingled with other trees, wood, timber, logs, or other products of trees into a crib, dram or raft, or in any other manner, so that it is difficult to distinguish the timber cut on Indian lands or on a reserve without license, from the other timber with which it is made up or intermingled, the whole of the timber so made up or intermingled shall be held to have been cut without authority on

Indian lands or on a reserve, and shall be seized and forfeited and sold by the Superintendent General or any officer or agent acting under him, unless evidence satisfactory to him is adduced showing the probable quantity not cut on Indian lands or on a reserve. 50-51 V., c. 33, s. 7.

82. Every officer or person seizing trees, logs, timber or other products of trees in the discharge of his duty under this Part may, in the name of the Crown, call in any assistance necessary for securing and protecting the same. R.S., c. 43, s. 64.

83. Whenever any trees, logs, timber or other product of trees are seized for non-payment of Crown dues, or for any other cause of forfeiture, or whenever any prosecution is brought in respect of any penalty or forfeiture under this Part, and any question arises whether said dues have been paid or whether the trees, logs, timber or other product were cut on lands other than any of the lands aforesaid, the burden of proving payment, or on what land the same were cut, as the case may be, shall lie on the owner or claimant and not on the officer who seizes the same, or the person who brings such prosecution. R.S., c. 43, s. 65.

84. All trees, logs, timber or other product of trees seized under this Part shall be deemed to be condemned unless the person from whom they are seized, or the owner thereof within one month from the day of the seizure, gives notice to the seizing officer, or nearest officer or agent of the Superintendent General that he claims, or intends to claim them, and unless within one month from the day of giving such notice he initiates, in some court of competent jurisdiction, proceedings for the purpose of establishing his claim.

2. In default of such notice and initiation of proceedings the officer or agent seizing shall report the circumstances to the Superintendent General, who may order the sale by the said officer or agent of such trees, logs, timber or other products. 61 V., c. 34, s. 5.

85. Any judge of any superior, county or district court, or any stipendiary magistrate, police magistrate or Indian agent, may, in a summary way, under the provisions of Part XV of the Criminal Code, try and determine such seizures; and may, pending the trial, order the delivery of the trees, or the logs, timber or other product to the alleged owner, on receiving security by bond, with two good and sufficient sureties, first approved by the said agent, to pay double the value of such trees, logs, timber or other product, in case of their condemnation.

2. Such bond shall be taken in the name of the Superintendent General, for His Majesty, and shall be delivered up to and kept by the Superintendent General.

Value of
condemned
trees to be
paid to the
Superinten-
dent
General.

3. If such seized trees, logs, timber or other product are condemned, the value thereof shall be paid forthwith to the Superintendent General or agent, and the bond cancelled; otherwise the penalty of such bond shall be enforced and recovered. R.S., c. 43, s. 67.

Forfeiture of
timber for
attempt to
evade
payment.

86. Every one who avails himself of any false statement or false oath to evade the payment of dues under this Part, shall forfeit the timber in respect of which the dues are attempted to be evaded. R.S., c. 43, s. 68.

Management of Indian Moneys.

Indian
moneys to be
dealt with as
heretofore.

87. All moneys or securities of any kind applicable to the support or benefit of Indians, or any band of Indians, and all moneys accrued or hereafter to accrue from the sale of any Indian lands or the proceeds of any timber on any Indian lands, or a reserve shall, subject to the provisions of this Part, be applicable to the same purposes, and be dealt with in the same manner as they might have been applied to or dealt with but for the passing of this Part.

Contracts
effecting
Indian
moneys and
securities
to be
approved by
Superinten-
dent
General.

2. No contract or agreement binding or purporting to bind, or in any way dealing with the moneys or securities referred to in this section, or with any moneys appropriated by Parliament for the benefit of Indians, made either by the chiefs or councillors of any band of Indians or by the members of the said band, other than and except as authorized by and for the purpose of this Part of the Act, shall be valid or of any force or effect unless and until it has been approved in writing by the Superintendent General. R.S., c. 43, s. 69; 9-10 Ed. VII., c. 28, s. 2.

Reduction of
purchase
money due
on sales of
Indian lands.

88. The Governor in Council may reduce the purchase money due or to become due on sales of Indian lands, or reduce or remit the interest on such purchase money, or reduce the rent at which Indian lands have been leased, when he considers the same excessive.

Returns of
reductions to
Parliament.

2. A return setting forth all the reductions and remissions made under this section during the fiscal year shall be submitted to both Houses of Parliament within twenty days after the expiration of such year, if Parliament is then sitting, and, if Parliament is not then sitting, within twenty days after the opening of the next ensuing session of Parliament. 58-59 V., c. 35, s. 8.

Investment
and manage-
ment of
Indian funds
may be
regulated by
Governor in
Council.

89. With the exception of such sum not exceeding fifty per centum of the proceeds of any land, timber or other property, as is agreed at the time of the surrender to be paid to the members of the band interested therein, the Governor in Council may, subject to the provisions of this Part, direct how and in what manner, and by whom, the moneys arising from the dis-

posals of Indian lands, or of property held or to be held in trust for Indians, or timber on Indian lands or reserves, or from any other source for the benefit of Indians, shall be invested from time to time, and how the payments or assistance to which the Indians are entitled shall be made or given.

2. The Governor in Council may provide for the general management of such moneys, and direct what percentage or proportion thereof shall be set apart, from time to time to cover the cost of and incidental to the management of reserves, lands, property and moneys under the provisions of this Part, and may authorize and direct the expenditure of such moneys for surveys, for compensation to Indians for improvements or any interest they had in lands taken from them, for the construction or repair of roads, bridges, ditches and watercourses on such reserves or lands, for the construction and repair of school buildings and charitable institutions, and by way of contribution to schools attended by such Indians. 6 Ed. VII., c. 20, s. 1; 9-10 Geo. V., c. 56, s. 1.

In what particulars.

90. The Governor in Council may, with the consent of a band, authorize and direct the expenditure of any capital moneys standing at the credit of such band, in the purchase of land as a reserve for the band or as an addition to its reserve, or in the purchase of cattle for the band, or in the construction of permanent improvements upon the reserve of the band, or such works thereon or in connection therewith as, in his opinion, will be of permanent value to the band, or will, when completed, properly represent capital.

Power of Governor in Council as to direction of expenditure of capital of band.

2. In the event of a band refusing to consent to the expenditure of such capital moneys as the Superintendent General may consider advisable for any of the purposes mentioned in subsection one of this section, and it appearing to the Superintendent General that such refusal is detrimental to the progress or welfare of the band, the Governor in Council may, without the consent of the band, authorize and direct the expenditure of such capital for such of the said purposes as may be considered reasonable and proper.

Direction of expenditure of capital of band, without consent.

3. Whenever any land in a reserve whether held in common or by an individual Indian is uncultivated and the band or individual is unable or neglects to cultivate the same, the Superintendent General, notwithstanding anything in this Act to the contrary, may, without a surrender, grant a lease of such lands for agricultural or grazing purposes for the benefit of the band or individual, or may employ such persons as may be considered necessary to improve or cultivate such lands during the pleasure of the Superintendent General, and may authorize and direct the expenditure of so much of the capital funds of the band as may be considered necessary for the improvement of such land, or for the purchase of such stock, machinery, material or labour as may be considered necessary for the culti-

Lease of lands in a reserve if band or individual neglects cultivation.

vation or grazing of the same, and in such case all the proceeds derived from such lands, except a reasonable rent to be paid for any individual holding, shall be placed to the credit of the band: Provided that in the event of improvements being made on the lands of an individual the Superintendent General may deduct the value of such improvements from the rental payable for such lands. 57-58 V., c. 32, s. 11; 8-9 Geo. V., c. 26, s. 4.

Proceeds of
sales to be
paid to Min-
ister of
Finance.

91. The proceeds arising from the sale or lease of any Indian lands, or from the timber, hay, stone, minerals or other valuables thereon, or on a reserve, shall be paid to the Minister of Finance to the credit of the Indian fund. R.S., c. 43, s. 71.

Powers of
Superinten-
dent General.

92. The Superintendent General may,—

(a) stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any Indian who is proved, to the satisfaction of the Superintendent General, guilty of deserting his family, or of conduct justifying his wife or family in separating from him, or who is separated from his family by imprisonment, and apply the same towards the support of the wife or family of such Indian; or,

(b) stop the payment of the annuity and interest money of any Indian parent of an illegitimate child, and apply the same to the support of such child; or,

(c) stop the payment of the annuity and interest money of, as well as deprive of any participation in the real property of the band, any woman who deserts her husband or family and lives immorally with another man, and apply the same to the support of the family so deserted; or,

(d) whenever sick or disabled, or aged or destitute Indians are not provided for by the band of which they are members, furnish sufficient aid from the funds of the band for the relief of such sick, disabled, aged or destitute Indians;

Sanitary
regulations.

(e) make such regulations as he deems necessary for the prevention or mitigation of disease; the frequent and effectual cleansing of streets, yards and premises; the removal of nuisances and unsanitary conditions; the cleansing, purifying, ventilating and disinfecting of premises by the owners and occupiers or other persons having the care or ordering thereof; the supplying of such medical aid, medicine and other articles and accommodation as the Superintendent General may deem necessary for preventing or mitigating an outbreak of any communicable disease; entering and inspecting any premises used for human habitation in any locality in which conditions exist which in the opinion of the Superintendent General are unsanitary, or such as to render the inhabitants specially liable to disease, and for directing the alteration or destruction of any such building which is, in the opinion of

the Superintendent General, unfit for human habitation; preventing the overcrowding of premises used for human habitation by limiting the number of dwellers in such premises; preventing and regulating the departure of persons from, and access of persons to, infected localities; preventing persons or conveyances from passing from one locality to another; detaining persons or conveyances who or which have been exposed to infection for inspection or disinfection until the danger of infection is past; the removal or keeping under surveillance of persons living in infected localities; and any other matter which, in the opinion of the Superintendent General, the health of the Indians of any locality may require.

(f) May make by-laws for the taxation, control and destruction of dogs and for the protection of sheep, and such by-laws may be applied to such reserves or parts thereof from time to time as the Superintendent General may direct. Taxation of dogs, and protection of sheep.

2. In the event of any conflict between any regulation made by the Superintendent General and any rule or regulation made by any band, the regulations made by the Superintendent General shall prevail. In conflict of authority rule to prevail.

3. In any regulations or by-laws made under the provisions of this section, the Superintendent General may provide for the imposition of a fine not exceeding thirty dollars or imprisonment not exceeding thirty days, for the violation of any of the provisions thereof. R.S., c. 43, s. 74; 61 V., c. 34, s. 7-8; 4-5 Geo. V., c. 35, s. 6; 8-9 Geo. V., c. 26, s. 5. Penalties.

Election of Chiefs.

93. Whenever the Governor in Council deems it advisable for the good government of a band, to introduce the elective systems of chiefs and councillors or headmen, he may provide that the chief and councillors or headmen of any band shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall in such case be elected for a term of three years. Governor in Council may provide for election of chiefs.

2. The councillors or headmen may be in the proportion of two to every two hundred Indians. Councillors or headmen

3. No band shall have more than one chief and fifteen councillors or headmen. Numbers.

4. Any band composed of at least thirty members may have a chief. 61 V., c. 34, s. 9. Band of 30.

94. Life chiefs and councillors or headmen now living may continue to hold rank until death or resignation, or until their removal by the Governor in Council for dishonesty, intemperance, immorality or incompetency. As to present life chiefs.

Election
required for
exercise of
powers.

2. In the event of the Governor in Council providing that the chief and councillors or headmen of a band shall be elected, the life chiefs and councillors or headmen shall not exercise powers as such unless elected under the provision aforesaid. 61 V., c. 34, s. 9.

Reason for
which an
election may
be set aside.

95. An election may be set aside by the Governor in Council, on a report of the Superintendent General, if it is proved by two witnesses before the Indian agent for the locality, or such other person as is deputed by the Superintendent General to take evidence in the matter, that fraud or gross irregularity was practised at the said election.

Punishment
of fraud at
election.

2. Every Indian who is proved guilty of such fraud or irregularity, or connivance thereat, may be declared ineligible for re-election for a period not exceeding six years, if the Governor in Council, on the report of the Superintendent General, so directs. 61 V., c. 34, s. 9.

Grounds on
which chief,
etc., may be
deposed.

96. Any elected or life chief and any councillor or headman, or any chief or councillor or headman chosen according to the custom of any band, may, on the ground of dishonesty, intemperance, immorality or incompetency, be deposed by the Governor in Council and declared ineligible to hold the office of chief or councillor or headman for a period not exceeding three years. 61 V., c. 34, s. 9.

Regulations to be made by Chiefs.

Chiefs to
make regula-
tions as to
schools.

97. The chief or chiefs of any band in council may, subject to confirmation by the Governor in Council, make rules and regulations as to the religious denomination to which the teacher of the school established on the reserve shall belong.

Denomina-
tions.

2. If the majority of the band belongs to any one religious denomination, the teacher of the school established on the reserve shall belong to the same denomination.

Minority.

3. The Protestant or Catholic minority of any band may, with the approval of and under regulations made by the Governor in Council, have a separate school established on the reserve. R.S., c. 43, s. 76.

Other cases.

98. The chief or chiefs of any band in council may likewise and subject to such confirmation, make rules and regulations as to,—

Health.

(a) the care of the public health;

Order.

(b) the observance of order and decorum at assemblies of the Indians in general council, or on other occasions;

Intemper-
ance

(c) the repression of intemperance and profligacy;

Trespass.

(d) the prevention of trespass by cattle, and the protection of sheep, horses, mules and cattle;

- (e) the construction and maintenance of watercourses, roads, bridges, ditches and fences; Roads, etc.
- (f) the construction and repair of school houses, council houses and other Indian public buildings, and the attendance at school of children between the ages of six and fifteen years; School houses.
- (g) the establishment of pounds and the appointment of pound-keepers; Pounds.
- (h) the locating of the land in their reserves, and the establishment of a register of such locations; Locating of land.
- (i) the repression of noxious weeds. Weeds.

2. The Governor in Council may by the rules and regulations aforesaid provided for the imposition of punishment by fine, penalty or imprisonment, or both, for violation of any of such rules or regulations. Governor in Council may provide for punishment for violation.

3. The fine or penalty shall in no case exceed thirty dollars and the imprisonment shall in no case exceed thirty days. Limit of penalty.

4. The proceedings for the imposition of such punishment shall be taken under Part XV of the Criminal Code. R.S., c. 43, s. 76. Criminal Code to apply.

Taxation.

99. No Indian or non-treaty Indian shall be liable to be taxed for any real or personal property, unless he holds, in his individual right, real estate under a lease or in fee simple, or personal property outside of the reserve or special reserve, in which case he shall be liable to be taxed for such real or personal property at the same rate as other persons in the locality in which it is situate. R.S., c. 43, s. 77. Liability of Indians to taxation.

100. No taxes shall be levied on the real property of any Indian, acquired under the enfranchisement clauses of this Part, until the same has been declared liable to taxation by proclamation of the Governor in Council, published in the *Canada Gazette*. R.S., c. 43, s. 77. As to taxes on property of an enfranchised Indian.

101. All land vested in the Crown or in any person in trust or for the use of any Indian or non-treaty Indian or any band or irregular band of Indians or non-treaty Indians shall be exempt from taxation, except those lands which, having been surrendered by the bands owning them, though unpatented, have been located by or sold or agreed to be sold to any person; and, except as against the Crown and any Indian located on the land, the same shall be liable to taxation in like manner as other lands in the same locality: Provided that nothing herein contained shall interfere with the right of the Superintendent General to cancel the original sale or location of any land, or shall render such land liable to taxation until it is again sold or located. 51 V., c. 22, s. 3. Exemption from taxation.

Legal Rights of Indians.

No lien or charge to be taken on property of Indians.

Proviso.

102. No person shall take any security or otherwise obtain any lien or charge, whether by mortgage, judgment or otherwise, upon real or personal property of any Indian or non-treaty Indian, except on real or personal property subject to taxation under the last three preceding sections: Provided that any person selling any article to an Indian or non-treaty Indian may take security on such article for any part of the price thereof which is unpaid. R.S., c. 43, s. 78.

As to rights of action by Indians.

Proviso.

103. Indians and non-treaty Indians shall have the right to sue for debts due to them, or in respect of any tort or wrong inflicted upon them, or to compel the performance of obligations contracted with them: Provided that, in any suit or action between Indians, or in any case of assault in which the offender is an Indian, no appeal shall lie from any judgment, order or conviction by any police magistrate, stipendiary magistrate, or two justices of the peace or an Indian agent, when the sum adjudged or the penalty imposed does not exceed ten dollars. R.S., c. 43, s. 79.

Things pawned by Indians for intoxicants not to be retained.

104. No pawn taken from any Indian or non-treaty Indian for any intoxicant shall be retained by the person to whom such pawn is delivered; but the thing so pawned may be sued for and shall be recoverable, with costs of suit, in any court of competent jurisdiction by the Indian or non-treaty Indian who pawned the same. R.S., c. 43, s. 80.

Presents, annuities, money and property exempt from seizure.

105. No presents given to Indians or non-treaty Indians, and no annuities or interest on funds, and no moneys appropriated by Parliament, held for any band of Indians, and no property purchased or acquired with or by means of any such annuities or income or moneys, and whether in the possession of any band of such Indians or of any Indian of any band or irregular band or not, shall be liable to be taken, seized, distrained, attached or in any way made the subject of judicial process for any debt, matter or cause whatsoever.

Traffic in presents and property restricted.

2. No such presents or property shall, in the province of Manitoba, British Columbia, Saskatchewan or Alberta, or in the Territories be sold, bartered, exchanged, or given by any band or irregular band of Indians, or any Indian of any such band to any person or Indian other than an Indian of such band.

Animals, farming implements, etc., deemed presents.

3. Animals given to Indians under treaty stipulations, and the progeny thereof, and farming implements, tools and any other articles given to Indians under treaty stipulations shall be held to be presents within the meaning of this section.

Sale, etc., null and void.

4. Every such sale, barter, exchange or gift shall be null and void unless such sale, barter, exchange or gift is made with the written assent of the Superintendent General or his agent.

5. No Indian or non-treaty Indian in the provinces of Manitoba, British Columbia, Saskatchewan or Alberta, or in the Territories, shall without the written consent of the Indian agent, sell, barter, exchange or give to any person or Indian other than an Indian of such band, or kill or destroy any animal or the progeny thereof given to him or to the band under treaty stipulations or loaned or conditionally given to him or to the band by the Government. Any Indian who violates any of the provisions of this subsection shall be liable on summary conviction to a penalty not exceeding twenty-five dollars with costs of prosecution or to imprisonment not exceeding two months or to both fine and imprisonment. R.S., c. 43, s. 81; 53 V., c. 29, s. 7.

Selling, etc.,
live stock

106. If any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians, are or is unlawfully in the possession of any person, within the true intent and meaning of the last preceding section, any person acting under the authority of the Superintendent General may, with such assistance in that behalf as he thinks necessary, seize and take possession of the same, and shall deal therewith as the Superintendent General directs. R.S., c. 43, s. 81.

Presents unlawfully in
possession of
any person,
may be
seized.

Enfranchisement.

107. The Superintendent General may appoint a Board to consist of two officers of the Department of Indian Affairs and a member of the band to which the Indian or Indians under investigation belongs, to make enquiry and report as to the fitness of any Indian or Indians to be enfranchised. The Indian member of the Board shall be nominated by the council of the band, within thirty days after the date of notice having been given to the council, and in default of such nomination, the appointment shall be made by the Superintendent General. In the course of such enquiry it shall be the duty of the Board to take into consideration and report upon the attitude of any such Indian towards his enfranchisement, which attitude shall be a factor in determining the question of fitness. Such report shall contain a description of the land occupied by each Indian, the amount thereof and the improvements thereon, the names, ages and sex of every Indian whose interests it is anticipated will be affected, and such other information as the Superintendent General may direct such Board to obtain.

Enquiry and
report as to
fitness of
Indians
to be en-
franchised.

(2) On the report of the Superintendent General that any Indian, male or female, over the age of twenty-one years is fit for enfranchisement, the Governor in Council may by order direct that such Indians shall be and become enfranchised at the expiration of two years from the date of such order or earlier if requested by such Indian, and from the date of such enfranchisement the provisions of the *Indian Act* and of any other Act or law making any distinction between the legal

Governor in
Council may
enfranchise
Indians on
approval of
report of
Superin-
tendent
General

Effect of
enfranchise-
ment.

rights, privileges, disabilities and liabilities of Indians and those of His Majesty's other subjects, shall cease to apply to such Indian or to his or her minor unmarried children, or, in the case of a married male Indian, to the wife of such Indian, and every such Indian and child and wife shall thereafter have, possess and enjoy all the legal powers, rights and privileges of His Majesty's other subjects, and shall no longer be deemed to be Indians within the meaning of any laws relating to Indians.

Right of
Indian to
choose name,
and to be
known by
same.

(3) An Indian over the age of twenty-one years shall have the right to choose the Christian name and surname by which he or she wishes to be enfranchised and thereafter known, and from the date of the order of enfranchisement such Indian shall thereafter be known by such names, and if no such choice is made such Indian shall be enfranchised by and bear the name or names by which he or she has been theretofore commonly known.

Letters
patent for
his land to
be issued to
Indian upon
enfranchise-
ment.

(4) Upon the issue of an order of enfranchisement the Superintendent General shall, if any Indian enfranchised holds any land on a reserve, cause letters patent to be issued to such Indian for such land: Provided that such Indian shall pay to the funds of the band such amount per acre for the land he holds as the Superintendent General considers to be the value of the common interest of the band in such land, and such payment shall be a charge against the share of such Indian in the funds of the band. The Superintendent General shall also pay to each Indian upon enfranchisement his or her share of the funds to the credit of the band, including such amount as the Superintendent General determines to be his or her share of the value of the common interest of the band in the lands of the reserve or reserves, or share of the principal of the annuities of the band capitalized at five per centum, out of such moneys as are provided by Parliament for the purpose or which may be otherwise available for such purpose. The land and money of any minor, unmarried children may be held for the benefit of such minor or may be granted or paid in whole or in part to the father, or, if the father is dead, to the mother, or in either case to such person as the Superintendent General may select for such purpose for the maintenance of such minor, and the land and money of the wife shall be granted and paid to the husband, unless in any case the Superintendent General shall direct that the whole or any part thereof be granted or paid to the wife herself, in which case the same shall be granted or paid to the wife.

Receives
his share
of funds.

Land and
money of
children
and wife.

Payments
from funds
of band, if
no land

(5) If such Indian holds no land in a reserve he or she shall be paid from the funds of the band such amount as the Superintendent General determines to be his or her share of the value of the common interest of the band in the lands of the reserve or reserves, and shall also be paid his or her share of the funds or annuities of the band capitalized as aforesaid.

(6) Every Indian who is not a member of the band and every non-treaty Indian who, with the acquiescence of the band and approval of the Superintendent General, has been permitted to reside on the reserve or to obtain a holding or location thereon, may be enfranchised and given letters patent for such land as a member of the band, provided that such Indian or non-treaty Indian shall pay to the credit of the band the value of the common interest of the band in the land for which he receives a patent.

Indians not members of band, and non-treaty Indians enfranchised, and granted letters patent.

(7) On the issue of the letters patent to any enfranchised Indian for any land he may be entitled to, or the payment from the capital funds or annuities of the band, as above provided, such Indian and his or her minor unmarried children and, in the case of a male married Indian, the wife of such Indian shall cease to have any further claims whatsoever against any common property or funds of the band. 10-11 Geo. V., c. 50, s. 3.

Claims on funds of band cease on issue of letters patent.

108. Where an Indian is undergoing a period of probation in accordance with the provisions of sections one hundred and seven to one hundred and twenty-two, inclusive, heretofore in force, such Indian may on the recommendation of the Superintendent General be enfranchised by order of the Governor in Council, and given letters patent for the lands held by such Indian under location ticket issued to him or her in respect of such enfranchisement, and paid his or her share of the capital funds at the credit of the band or share of the principal of the annuities of the band capitalized at five per centum as aforesaid, out of such moneys as are provided for the purpose by Parliament or which may be otherwise available for such purpose. 10-11 Geo. V., c. 50, s. 3.

Enfranchisement of Indian on probation.

Receives letters patent and payment of share of fund.

109. When a majority of the members of a band is enfranchised, the common land or other public property of the band shall be equitably allotted to members of the band, and thereafter the residue, if any, of such land or public property may be sold by the Superintendent General and the proceeds of such sale placed to the credit of the funds of the band to be divided as provided in section one hundred and seven: Provided, however, that the Governor in Council may reserve and set apart from the funds of the band such sum as the Superintendent General may consider necessary for the perpetual care and protection of any Indian cemetery or burial plot belonging to such Indians, and any other common property which in the opinion of the Superintendent General should be preserved as such. And provided also that no part of such land or other property shall be sold to any person other than a member of the band except by public auction after three months' advertisement in the public press. 10-11 Geo. V., c. 50, s. 3.

Disposal of common lands or public property.

Proviso.

Care of Indian cemeteries, and common property which should be preserved.

Sales at public auction.

Regulations
to enforce
these pro-
visions.

110. The Governor in Council shall have power to make regulations for the carrying out of the provisions of the three sections immediately preceding this section, and subject to the provisions of this Act for determining how the land, capital moneys and other property of a band, or any part thereof, shall be divided, granted and paid, upon the enfranchisement of any Indian or Indians belonging to such band or having any interest in any of the property of such band, and to decide any questions arising under the said sections, and the decision of the Governor in Council thereon shall be final and conclusive. 10-11 Geo. V., c. 50, s. 3.

Decision of
Governor
in Council
final.

Report to
Parliament.

111. The Minister shall, within fifteen days after the opening of each session of Parliament, submit to both Houses of Parliament a list of the Indians enfranchised under this Act during the previous fiscal year, and the amount of land and money granted and paid to each Indian so enfranchised. 10-11 Geo. V., c. 50, s. 3.

Enfranchise-
ment of
Indians.

122A. If an Indian who holds no land in a reserve, does not reside on a reserve and does not follow the Indian mode of life, makes application to be enfranchised, and satisfies the Superintendent General that he is self-supporting and fit to be enfranchised, and surrenders all claims whatsoever to any interest in the lands of the band to which he belongs, and accepts his share of the funds at the credit of the band including the principal of the annuities of the band, to which share he would have been entitled had he been enfranchised under the foregoing sections of the Act, in full of all claims to the property of the band, or in case the band to which he belongs has no funds or principal of annuities, surrenders all claim whatsoever to any property of the band, the Governor in Council may order that such Indian be enfranchised and paid his said share if any, and from the date of such order such Indian, together with his wife and unmarried minor children, shall be held to be enfranchised.

Indian
woman.

2. Any unmarried Indian woman of twenty-one years, and any Indian widow and her minor unmarried children may be enfranchised in the like manner in every respect as a male Indian and his said children.

Application.

3. This section shall apply to the Indians in any part of Canada. 8-9 Geo. V., c. 26, s. 6.

Offences and Penalties.

Residing
etc. upon
any reserve
without
authority.

124. Every person, or Indian other than an Indian of the band, who, without the authority of the Superintendent General, resides or hunts upon, occupies or uses any land or marsh, or who resides upon or occupies any road, or allowance for road, running through any reserve belonging to or occupied by such band shall be liable, upon summary conviction, to imprisonment for a term not exceeding one month or to a penalty not exceed-

ing ten dollars and not less than five dollars, with costs of pro- Penalty.
secution, half of which penalty shall belong to the informer.
57-58 V., c. 32, s. 2.

125. Any person or Indian who, being lawfully required by Refusing to
remove
from reserve
on demand
of chief.
an Indian agent, a chief of the band occupying a reserve, or a
constable,—

(a) to remove with his family, if any, from the land, marsh,
road or allowance for road upon which he is or has settled
or is residing or hunting, or which he occupies; or,

(b) to remove his cattle from such land or marsh; or,

(c) to cease fishing in any marsh, river, stream or creek on
or running through a reserve; or,

(d) to cease using, occupying, settling or residing upon any
land, river, stream, creek, marsh, road or allowance for a
road in a reserve;

fails to comply with such requirements, shall, upon summary Penalty.
conviction, be liable to a penalty of not less than five dollars
and not more than ten dollars for every day during which such
failure continues, and, in default of payment, to be imprisoned
for a term not exceeding three months. 54-55 V., c. 30, s. 1.

126. Every Indian, not being an Indian of the band, who, Shooting or
fishing on
reserve
territory.
in the case where shooting privileges over a reserve or part of
a reserve, or fishing privileges in any marsh, pond, river, stream
or creek upon or running through a reserve, have, with the con-
sent of the Indians of the band, been leased or granted to any
person, and, in such case, every person not, under such lease or
grant, entitled to do, who hunts, shoots, kills or destroys any
game animals or birds, or who fishes for, takes, catches or kills
any fish to which such exclusive privilege extends, upon the
reserve or part of a reserve, or in any marsh, pond, river, stream
or creek covered by such lease or grant, shall, in addition to any
other penalty or liability thereby incurred, be liable on sum- Penalty.
mary conviction, for every such offence to a penalty not exceed-
ing ten dollars and not less than five dollars and, in default of
payment, to imprisonment for any term not exceeding one
month. 54-55 V., c. 30, s. 4.

127. Every person, or Indian other than an Indian of the Trespassing
on reserves
and cutting
or removing
band to which the reserve belongs, who, without the license in
writing of the Superintendent General, or of some officer or per-
son deputed by him for that purpose, cuts, carries away or re-
moves from any of the lands, roads or allowances for roads in a
reserve, any of the trees, saplings, shrubs, underwood, timber,
cordwood or part of a tree, or hay, or removes any of the stone,
soil, minerals, metals or other valuables from the said lands,
roads or allowances for roads, shall, on summary conviction
thereof, before any stipendiary magistrate, police magistrate or
any two justices of the peace or an Indian agent, incur in each
case the costs of prosecution and,—

- Trees, (a) for every tree he cuts, carries away or removes, a penalty of twenty dollars;
- Timber, (b) for cutting, carrying away or removing any of the saplings, shrubs, underwood, timber, cordwood or part of a tree or hay, if under the value of one dollar, a penalty of four dollars; and, if over the value of one dollar, a penalty of twenty dollars;
- Stone, soil, minerals. (c) for removing any of the stone, soil, minerals, metals, or other valuables aforesaid, a penalty of twenty dollars.
- Punishment in case of default of payment. 2. In default of immediate payment of the said penalties and costs, such magistrate, justices of the peace, or Indian agent may issue a warrant direct to any person or persons by him or them named therein, to levy the amount of the said penalties and costs by distress and sale of the goods and chattels of the person or Indian liable to pay the same, or may, without proceeding by distress and sale, upon non-payment of such penalties and costs, order the person or Indian liable therefor to be imprisoned in the common gaol of the county or district in which the said reserve or any part thereof lies for a term not exceeding thirty days, if the penalty does not exceed twenty dollars or for a term not exceeding three months, if the penalty exceeds twenty dollars.
- Issue of warrant, etc. 3. The Superintendent General, or such other officer or person as he shall authorize in that behalf may issue the warrant on any such conviction; or may, without proceeding by distress and sale, make such order upon such conviction as such magistrate, justices of the peace or Indian agent could make; and similar proceedings may be had upon the warrant so issued as if it had been issued by the magistrate, justices of the peace or Indian agent before whom the person was convicted.
- Committal in default of distress. 4. If upon the return of any warrant for distress and sale the amount thereof has not been made, or if any part of it remains unpaid, such magistrate, or justices of the peace, or Indian agent, or the Superintendent General, or such other officer or person as aforesaid, may commit the person in default to the common gaol, as aforesaid, for a term not exceeding thirty days, if the sum claimed upon the said warrant does not exceed twenty dollars, or for a term not exceeding three months if the sum exceeds twenty dollars.
- Application of penalties. 5. All such penalties shall be paid to the Minister of Finance, and shall be disposed of for the use and benefit of the band of Indians for whose benefit the reserve is held, in such manner as the Governor in Council directs. R.S., c. 43, s. 26; 53 V., c. 29, s. 3.
- Indians without a license, trespassing on reserves. **128.** Every Indian of the band who, without the license in writing of the Superintendent General, or of some officer or person deputed by him for that purpose,—
- (a) cuts, carries away or removes from land in a reserve held by another Indian under a location title or by an

Indian otherwise recognized by the Department as the occupant thereof any of the trees, cordwood, or part of a tree, saplings, shrubs, underwood, timber or hay thereon, or removes from such land any of the stone, soil, minerals, metals or other valuables; or,

(b) cuts, carries away or removes from any portion of the reserve of his band, for sale and not for the immediate use of himself and his family any trees, timber, cordwood, or part of a tree, saplings, shrubs, underwood or hay thereon, or removes any of the stone, soil, minerals, metals or other valuables therefrom for sale as aforesaid; or,

(c) unless with the consent of the band and the approval of the Superintendent General, cuts or uses any pine or large timber for any purpose other than for building on his own location or farm;

shall incur the penalties provided in the last preceding section Penalty.
in respect to Indians of other bands and other persons.

2. The same proceedings may be had for the recovery thereof as are provided for in the said section. Proceedings for recovery. 50-51 V., c. 33, s. 4.

129. Every person who buys or otherwise acquires from any Indian or band or irregular band of Indians in the province of Manitoba, Saskatchewan or Alberta, or the Territories, any grain, root crops or other produce contrary to regulations made by the Governor in Council in that behalf, shall, on summary conviction before a stipendiary magistrate, police magistrate or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both. Buying from Indians contrary to regulations of Governor in Council. Penalty. R.S., c. 43, s. 30.

130. Every person who cuts, carries away or removes from any reserve or special reserve, any hard or sugar-maple tree or saplings, or buys or otherwise acquires from any Indian or non-treaty Indian, or other person, any hard or sugar-maple tree or sapling so cut, carried away or removed from any reserve or special reserve in the province of Manitoba, Saskatchewan or Alberta, or the Territories, contrary to regulation made in that behalf by the Governor in Council, shall, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace or an Indian agent, be liable to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both. Cutting and removing trees from reserve contrary to regulations of Governor in Council. Penalty. R.S., c. 43, s. 32.

131. Every person being,—

(a) an official or employee connected with the inside or outside service of the Department of Indian Affairs; or,

(b) a missionary in the employ of any religious denomination, or otherwise employed in mission work among Indians, or,

Trading without license.

- (c) a school teacher on an Indian reserve; and,
 (d) in the province of Manitoba, Saskatchewan or Alberta,
 or the Territories;

who, on a reserve without the special license in writing of the Superintendent General, trades with any Indian or directly or indirectly sells him any goods or supplies, cattle or other animals, shall be liable to a fine equal in amount to double the sum received for the goods, supplies, cattle or other animals sold, and, in addition, to the costs of prosecution before a police magistrate, a stipendiary magistrate, or justice of the peace or the Indian agent for the locality where the offence occurs. 53 V., c. 29, s. 10; 57-58 V., c. 32, s. 10.

Cutting trees
or assisting
in cutting
trees on
Indian lands.

132. If any person without authority, cuts or employs, or induces any other person to cut, or assist in cutting any trees of any kind on Indian lands or on any reserve, or removes or carries away, or employs, or induces or assists any other person to remove or carry away any trees of any kind so cut from any Indian lands or reserves, he shall not acquire any right to the trees so cut, or any claim to any remuneration for cutting or preparing the same for market, or conveying the same to or towards market.

If trees
cannot be
seized.

2. When the trees or logs or timber or any products thereof have been removed, so that the same cannot, in the opinion of the Superintendent General, conveniently be seized, he shall, in addition to the loss of his labour and disbursements, incur a penalty of three dollars for each tree, rafting stuff excepted, which he is proved to have cut or caused to be cut or carried away.

Penalty.

Recovery of
penalty.

3. Such penalty shall be recoverable with costs at the suit and in the name of the Superintendent General or resident agent in any court having jurisdiction in civil matters to the amount of the penalty.

Proof of
authority.

4. In all such cases, it shall be incumbent on the person charged to prove his authority to cut.

What shall
be sufficient
evidence.

5. The averment of the person seizing or prosecuting that he is duly employed under the authority of this Part shall be sufficient proof thereof, unless the defendant proves the contrary. R.S., c. 43, s. 61.

Buying or
acquiring
presents
given to
Indians.

133. Every person or Indian other than an Indian of the band, who without the written consent of the Superintendent General or his agent, the burden of proof concerning which shall be on the accused, buys or otherwise acquires any presents given to Indians or non-treaty Indians, or any property purchased or acquired with or by means of any annuities granted to Indians or any part thereof, is guilty of an offence, and liable on summary conviction to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months. R.S., c. 43, s. 81; 53 V., c. 29, s. 6.

Penalty.

134. Every agent for the sale of Indian lands who, within his division, directly or indirectly, except under an Order of the Governor in Council, purchases any land which he is appointed to sell, or becomes proprietor of or interested in any such land, during the time of his agency, shall forfeit his office and incur a penalty of four hundred dollars for every such offence, recoverable in an action of debt by any person who sues for the same. R.S., c. 43, s. 110.

Land sale
agent pur-
chasing
Indian land.

Penalty.

135. Every one who by himself, his clerk, servant or agent, and every one who in the employment or on the premises of another directly or indirectly on any pretence or by any device,—

Every
person

(a) sells, barter, supplies or gives to any Indian or non-treaty Indian, or to any person male or female who is reputed to belong to a particular band, or who follows the Indian mode of life, or any child of such person any intoxicant, or causes or procures the same to be done or attempts the same or connives thereat; or,

Selling
intoxicant
to Indians.

(b) opens or keeps or causes to be opened or kept on any reserve or special reserve a tavern, house or building in which any intoxicant is sold, supplied or given; or,

Opening and
keeping a
tavern on a
reserve.

(c) is found in possession of any intoxicant in the house, tent, wigwam, or place of abode of any Indian or non-treaty Indian or of any person on any reserve or special reserve, or on any other part of any reserve or special reserve; or,

Having in-
toxicants in
his posses-
sion in house
of Indian.

(d) sells, barter, supplies or gives to any person on any reserve or special reserve any intoxicant;

Selling
intoxicants
on reserve.

shall, on summary conviction, before any judge, police magistrate, stipendiary magistrate or two justices of the peace or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding three hundred dollars and not less than fifty dollars with costs of prosecution, or to both penalty and imprisonment in the discretion of the convicting judge, magistrate, justices of the peace or Indian agent.

Penalty.

2. A moiety of every such penalty shall belong to the informer or prosecutor, and the other moiety thereof to His Majesty to form part of the fund for the benefit of that body of Indians or non-treaty Indians with respect to one or more members of which the offence was committed. 51 V., c. 22, s. 4; 57-58 V., c. 32, s. 6.

Application
of penalty.

136. The commander or any person in charge of any steamer or other vessel, or boat, from or on board of which any intoxicant has been sold, bartered, exchanged, supplied or given to any Indian or non-treaty Indian, shall, on summary conviction before any judge, police magistrate, stipendiary

Commander
of vessel
whereon
intoxicants
are sold
guilty of
offence.

Penalty.

magistrate or two justices of the peace, or Indian agent, be liable to a penalty not exceeding three hundred dollars and not less than fifty dollars for each such offence, with cost of prosecution, and in default of immediate payment of such penalty and costs, any person so convicted shall be committed to any common gaol, house of correction, lock-up or other place of confinement by the judge, magistrate or two justices of the peace, or Indian agent, before whom the conviction has taken place, for a term not exceeding six months and not less than one month, with or without hard labour, or until such penalty and costs are paid.

Application of penalties.

2. The penalty shall be applied as provided in the last preceding section. R.S., c. 43, s. 95.

Indians having intoxicants and selling the same to Indians.

137. Every Indian or non-treaty Indian who makes or manufactures any intoxicant, or who has in his possession, or concealed, or who sells, exchanges with, barter, supplies or gives to any other Indian or non-treaty Indian, any intoxicant, shall, on summary conviction before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, be liable to imprisonment for a term not exceeding six months and not less than one month, with or without hard labour, or to a penalty not exceeding one hundred dollars and not less than twenty-five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, or justices of the peace or Indian agent. R.S., c. 43, s. 96.

Penalty.

Exception in case of illness.

138. No penalty shall be incurred when the intoxicant is made use of in case of sickness under the sanction of a medical man or under the directions of a minister of religion.

Proof.

2. The burden of proof that the intoxicant has been so made use of shall be on the accused. R.S., c. 43, s. 98; 53 V., c. 29, s. 8.

Arrest without warrant of any person or Indian with intoxicants.

139. Any constable or peace officer may arrest without warrant any person or Indian found gambling or drunk, or with intoxicants in his possession, on any part of a reserve, and may detain him until he can be brought before a justice of the peace, and such person or Indian shall be liable upon summary conviction to imprisonment for a term not exceeding three months or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer.

Penalty.

Offences.

Gambling, drinking or possession of liquor on Indian reserve.
Penalty.

(2) Any person or Indian who has been gambling or has been drunk on an Indian reserve, or has had liquor in his possession on an Indian reserve, shall be liable on summary conviction to imprisonment for any term not exceeding three months, or to a penalty not exceeding fifty dollars and not less than ten dollars, with costs of prosecution, half of which pecuniary penalty shall belong to the informer. 57-58 V., c. 32, s. 7; 10-11 Geo. V., c. 50, s. 4.

140. The keg, barrel, case, box, package or receptacle from which any intoxicant has been sold, exchanged, bartered, supplied or given, as well as that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified; and any intoxicant imported, manufactured or brought into and upon any reserve or special reserve, or into the house, tent, wigwam or place of abode, or on the person of any Indian or non-treaty Indian, or suspected to be upon any reserve or special reserve, may be searched for under a search warrant in that behalf granted by any judge, police magistrate, stipendiary magistrate or justice of the peace, and, if found, seized by any Indian superintendent, agent or bailiff, or other officer connected with the Department of Indian Affairs, or by any constable, where-soever found on such land or in such place or on the person of such Indian or non-treaty Indian.

Kegs, etc., in which intoxicants are carried to be forfeited.

Search.

Seizure.

2. On complaint before any judge, police magistrate, stipendiary magistrate, justice of the peace or Indian agent, he may, on evidence that this Act has been violated in respect of any such intoxicant or of any such keg, barrel, case, box, package, receptacle or vessel, or contents thereof, declare the same forfeited, and cause the same to be forthwith destroyed.

Destruction of kegs, etc.

3. Such judge, magistrate, justice of the peace or Indian agent may condemn the Indian or person in whose possession the same is found to pay a penalty not exceeding one hundred dollars and not less than fifty dollars, and the costs of prosecution; and, in default of immediate payment, the offender may be committed to any common gaol, house of correction, lock-up or other place of confinement, with or without hard labour, for any term not exceeding six months, and not less than two months, unless such penalty and costs are sooner paid.

Indian or person found in possession to be punished.

Penalty.

4. A moiety of such penalty shall belong to the prosecutor, and the other moiety to His Majesty for the purpose hereinbefore mentioned. R.S., c. 43, s. 100.

Application of penalty.

141. If it is proved before any judge, police magistrate, stipendiary magistrate or two justices of the peace, or Indian agent, that any vessel, boat, canoe or conveyance of any description, upon the sea or sea-coast, or upon any river, lake or stream, is employed in carrying any intoxicant to be supplied to Indians or non-treaty Indians, such vessel, boat, canoe or conveyance so employed may be seized and declared forfeited, as in the last preceding section mentioned, and sold and the proceeds thereof paid to His Majesty for the purpose hereinbefore mentioned. R.S., c. 43, s. 101.

Vessels used in carrying intoxicants for Indians, to be forfeited and sold.

Proceeds.

142. Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which in violation of this Act, the consideration, either wholly or in part, is an intoxicant, shall be forfeited to His Majesty and may be sold.

Articles exchanged for intoxicants to be forfeited and sold.

seized, as is hereinbefore provided in respect to any receptacle of any intoxicant, and may be sold, and the proceeds thereof paid to His Majesty, for the purpose hereinbefore mentioned. R.S., c. 43, s. 102.

Introducing
intoxicants
at Indian
council or
meeting.

143. Every person who introduces any intoxicant at any council or meeting of Indians held for the purpose of discussing or assenting to a release or surrender of a reserve or portion thereof or for the purpose of assenting to the issuing of a license, and every agent or officer employed by the Superintendent General, or by the Governor in Council, who introduces, allows or countenances by his presence the use of such intoxicant among such Indians during the week before or at or the week after such council or meeting, shall incur a penalty of two hundred dollars recoverable by action in any court of competent jurisdiction.

Penalty.

Application
of penalty.

2. A moiety of such penalty shall belong to the informer. R.S., c. 43, s. 103.

Indian
intoxicated.

144. Every Indian who is found in a state of intoxication shall be liable on summary conviction thereof to imprisonment for any term not exceeding one month, or to a penalty not exceeding thirty dollars and not less than five dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. 50-51 V., c. 33, s. 10.

Penalty.

Arrest with-
out warrant
of intoxi-
cated
Indian.

145. Any constable or other peace officer may, without warrant, arrest any Indian or non-treaty Indian found in a state of intoxication, and convey him to any common gaol, house of correction, lock-up, or other place of confinement there to be kept until he is sober; and such Indian or non-treaty Indian shall, when sober, be brought for trial before any judge, police magistrate, stipendiary magistrate, or justice of the peace or Indian agent. 50-51 V., c. 33, s. 10.

Refusal
to state
where
intoxicant
was
procured.

146. If any Indian or non-treaty Indian who has been so convicted, refuses, upon examination, to state or give information of the person from whom, the place where, and the time when, he procured such intoxicant, and if from any other Indian or non-treaty Indian, then, if within his knowledge, from whom, where and when such intoxicant was originally procured or received, he shall be liable to imprisonment as aforesaid for a further period not exceeding fourteen days, or to an additional penalty not exceeding fifteen dollars and not less than three dollars, or to both penalty and imprisonment, in the discretion of the convicting judge, magistrate, justice of the peace or Indian agent. R.S., c. 43, s. 105.

Penalty.

Agent giving
false infor-
mation as
to lands

147. Every agent who knowingly and fasely informs, or causes to be informed, any person applying to him to purchase any land within his division and agency, that the same has

already been purchased, or who refuses to permit the person so applying to purchase the same according to existing regulations, shall be liable therefor to the person so applying, in the sum of five dollars for each acre of land which the person so applying offered to purchase, recoverable by action of debt in any court of competent jurisdiction. R.S., c. 43, s. 109.

148. Every person who, after public notice by the Superintendent General prohibiting the sale, gift, or other disposal to Indians in any part of the province of Manitoba, Saskatchewan or Alberta, or the Territories, of any fixed ammunition or ball cartridge, without the permission in writing of the Superintendent General, sells or gives, or in any other manner conveys to any Indian, in the portion of the said provinces or Territories to which such notice applies, any fixed ammunition or ball cartridge, shall, on summary conviction before any stipendiary or police magistrate or by any two justices of the peace, or by an Indian agent, be liable to a penalty not exceeding two hundred dollars, or to imprisonment for a term not exceeding six months, or to both penalty and imprisonment, within the limits aforesaid, at the discretion of the court before which the conviction is had. R.S., c. 43, s. 113.

149. Every Indian or other person who engages in, or assists in celebrating or encourages either directly or indirectly another to celebrate any Indian festival, dance or other ceremony of which the giving away or paying or giving back of money, goods or articles of any sort forms a part, or is a feature, whether such gift of money, goods or articles takes place before, at, or after the celebration of the same, or who engages or assists in any celebration or dance of which the wounding or mutilation of the dead or living body of any human being or animal forms a part or is a feature, is guilty of an offence and is liable on summary conviction to imprisonment for a term not exceeding six months and not less than two months: Provided that nothing in this section shall be construed to prevent the holding of any agricultural show or exhibition or the giving of prizes for exhibits thereat.

2. Any Indian in the province of Manitoba, Saskatchewan, Alberta, British Columbia or the Territories who participates in any Indian dance outside the bounds of his own reserve, or who participates in any show, exhibition, performance, stampede or pageant in aboriginal costume without the consent of the Superintendent General of Indian Affairs, or his authorized agent, and any person who induces or employs any Indian to take part in any such dance, show, exhibition, performance, stampede, or pageant, or induces any Indian to leave his reserve or employs an Indian for such a purpose, whether the dance, show, exhibition, stampede or pageant has taken place or not, shall on summary conviction be liable to a penalty not exceeding twenty-five dollars or to imprisonment for one month,

or to both penalty and imprisonment. 58-59 V., c. 35, s. 6; 4-5 Geo. V, c. 35, s. 8; 8-9 Geo. V, c. 26, s. 7.

Application
of penalties.

Governor in
Council may
apply the
same other-
wise.

150. Every fine, penalty or forfeiture under this Act, except so much thereof as is payable to an informer or person suing therefor, shall belong to His Majesty for the benefit of the band of Indians with respect to which or to one or more members of which the offence was committed, or to which the offender, if an Indian, belongs: Provided that the Governor in Council may from time to time direct that the same be paid to any provincial, municipal or local authority which wholly or in part bears the expense of administering the law under which such fine, penalty or forfeiture is imposed, or that the same be applied in any other manner deemed best adapted to attain the objects of such law or to secure its due administration, and may in case of doubt decide what band is entitled to the benefit of any such fine, penalty or forfeiture. 57-58 V., c. 32, s. 9.

Evidence and Procedure.

Evidence of
unbelieving
Indian may
be received
on his solemn
affirmation.

151. Upon any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever or by whomsoever committed, any court, judge, police or stipendiary magistrate, recorder, coroner, justice of the peace or Indian agent, may receive the evidence of any Indian or non-treaty Indian, who is destitute of the knowledge of God or of any fixed and clear belief in religion, or in a future state of rewards and punishments, without administering the usual form of oath to any such Indian or non-treaty Indian, as aforesaid, upon his solemn affirmation or declaration to tell the truth, the whole truth and nothing but the truth, or in such form as is approved by such court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent, as most binding on the conscience of such Indian or non-treaty Indian. R.S., c. 43, s. 120.

Substance of
evidence of
Indian to be
reduced to
writing and
signed.

152. In the case of any inquest, or upon any inquiry into any matter involving a criminal charge, or upon the trial of any crime or offence whatsoever, the substance of the evidence or information of any such Indian or non-treaty Indian, as aforesaid, shall be reduced to writing and signed by the Indian, by mark if necessary, giving the same, and verified by the signature or mark of the person acting as interpreter, if any, and by the signature of the judge, magistrate, recorder, coroner, justice of the peace, Indian agent or person before whom such evidence or information is given. R.S., c. 43, s. 121.

Indians to
be cautioned
to tell the
truth.

153. The court, judge, magistrate, recorder, coroner, justice of the peace or Indian agent shall, before taking any such evidence, information or examination, caution every such Indian or non-treaty Indian, as aforesaid, that he will be liable to incur punishment if he does not tell the truth, the whole truth and nothing but the truth. R.S., c. 43, s. 122.

154. Every solemn affirmation or declaration, in whatsoever form made or taken, by any Indian or non-treaty Indian, as aforesaid, shall be of the same force and effect as if such Indian or non-treaty Indian had taken an oath in the usual form. R.S., c. 43, s. 124. Effect of solemn affirmation of Indian.

155. The written declaration or examination so made, taken and verified, of any such Indian or non-treaty Indian as aforesaid, may be lawfully read and received as evidence upon the trial of any criminal proceeding when under the like circumstances the written affidavit, examination, deposition or confession of any person might be lawfully read and received as evidence. Written declaration, etc., of Indian may be used in evidence.

2. Copies of any records, documents, books or papers belonging to or deposited in the Department, attested under the signature of the Superintendent General, or of the Deputy of the Superintendent General, shall be evidence in all cases in which the original records, documents, books or papers would be evidence. R.S., c. 43, ss. 123 and 130. Certified copies of records, official papers, etc., to be evidence.

156. In any order, writ, warrant, summons and proceeding whatsoever made, issued or taken by the Superintendent General, or any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, it shall not be necessary to insert or express the name of the person or Indian summoned, arrested, distrained upon, imprisoned or otherwise proceeded against therein, except when the name of such person or Indian is truly given to or known by the Superintendent General, or such officer or person, or such stipendiary magistrate, police magistrate, justice of the peace or Indian agent. Name of offender need not be entered in the warrant in certain cases.

2. If the name is not truly given to or known by him, he may name or describe the person or Indian by any part of the name of such person or Indian given to or known by him. What description shall suffice.

3. If no part of the name is given to or known by him, he may describe the person or Indian proceeded against in any manner by which he may be identified. Where name unknown.

4. All such proceedings containing or purporting to give the name or description of any such person or Indian, as aforesaid shall *prima facie* be sufficient. R.S., c. 43, s. 28. P. and desc. sufficient.

157. All sheriffs, gaolers or peace officers, to whom any such process is directed by the Superintendent General, or by any officer or person by him deputed as aforesaid, or by any stipendiary magistrate, police magistrate, justice of the peace or Indian agent, and all other persons to whom such process is directed with their consent, shall obey the same; and all other officers shall, upon reasonable requisition so to do, assist in the execution thereof. R.S., c. 43, s. 29. Execution of order of Superintendent General by sheriffs, gaolers, etc.

His Majesty's name to be used in certain cases.

158. In all cases of encroachment upon, or of violation of trust respecting any special reserve, proceedings may be taken in the name of His Majesty, in any superior court, notwithstanding the legal title is not vested in His Majesty. R.S., c. 43, s. 36.

Who may act as justice or two justices of the peace.

159. Any judge of a court, judge of session of the peace, recorder, police magistrate or stipendiary magistrate shall have full power to do alone whatever is authorized by this Part to be done by a justice of the peace or by two justices of the peace. R.S., c. 43, s. 115.

Jurisdiction in city or town to give jurisdiction in surrounding county or district.

160. Any recorder, police magistrate or stipendiary magistrate, appointed for or having jurisdiction to act in any city or town shall, with respect to offences and matters under this Part, have and exercise jurisdiction over the whole county or union of counties or judicial district in which the city or town for which he has been appointed or in which he has jurisdiction is situate. R.S., c. 43, s. 116.

Indian agent *ex-officio* justice of the peace.

161. Every Indian agent shall for all the purposes of this Act or of any other Act respecting Indians, and with respect to,—

- (a) any offence against the provisions of this Act or any other Act respecting Indians; or,
- (b) any offence against the provisions of the Criminal Code respecting the inciting of Indians to commit riotous acts; or,
- (c) any offence by any Indian or non-treaty Indian against any of the provisions of those parts of the Criminal Code relating to vagrancy and offences against morality;

Jurisdiction.

be *ex officio* a justice of the peace and have the power and authority of two justices of the peace, anywhere within the territorial limits of his jurisdiction as a justice, as defined in his appointment or otherwise defined by the Governor in Council, whether the Indian or non-treaty Indian charged with or in any way concerned in or affected by the offence, matter or thing to be tried, investigated or dealt with, is or is not within his ordinary jurisdiction, charge or supervision as an Indian agent. 58-59 V., c. 35, s. 7.

Special jurisdiction.

162. In the provinces of Manitoba, British Columbia, Saskatchewan and Alberta, and in the Territories, every Indian agent shall, for all such purposes and with respect to any such offence, be *ex officio* a justice of the peace and have the power and authority of two justices of the peace, whether or not the territorial limits of his jurisdiction as a justice as defined in his appointment or otherwise defined as aforesaid, extend to the place where he may have occasion to act as such justice or to exercise such power or authority, and whether the Indians charged with or in any way concerned in or affected by the

offence, matter or thing, to be tried, investigated or otherwise dealt with, are or are not within his ordinary jurisdiction, charge or supervision as Indian agent. 58-59 V., c. 35, s. 7.

163. If any Indian is convicted of any crime punishable by imprisonment in a penitentiary or other place of confinement, the costs incurred in procuring such conviction, and in carrying out the various sentences, recorded, may be defrayed by the Superintendent General, and paid out of any annuity or interest coming to such Indian, or to the band as the case may be. R.S., c. 43, s. 118.

Indian imprisoned not to receive annuity while imprisoned.

General.

164. No Indian or non-treaty Indian resident in the province of Manitoba, Saskatchewan or Alberta, or the Territories, shall be held capable of having acquired or of acquiring a homestead or pre-emption right under any Act respecting Dominion lands, to a quarter-section, or any parcel of land in any surveyed or unsurveyed lands in the said provinces or territories, or the right to share in the distribution of any lands allotted to half-breeds: Provided that,—

Indians not capable of acquiring homestead.

Proviso.

- (a) he shall not be disturbed in the occupation of any plot on which he had permanent improvements prior to his becoming a party to any treaty with the Crown; Occupation not to be disturbed.
- (b) nothing in this section shall prevent the Superintendent General, if found desirable, from compensating any Indian for his improvements on such a plot of land, without obtaining a formal surrender thereof from the band; and May be compensated for improvements.
- (c) nothing in this section shall apply to any person who withdrew from any Indian treaty prior to the first day of October, in the year one thousand eight hundred and seventy-four. R.S., c. 43, s. 126. Section not to apply to certain Indians.

165. Where shooting privileges over a reserve or part of a reserve, or fishing privileges thereon have, with the consent of the Indians of the band, been leased or granted to any person, it shall not be lawful for any person, not under such lease or grant entitled so to do, or for any Indian other than an Indian of the band, to hunt, shoot, kill or destroy any game animals or birds, or to fish for, take, catch or kill any fish to which such exclusive privilege extends, upon the reserve or part of a reserve. 54-55 V., c. 30, s. 4.

Shooting and fishing privileges.

166. At the election of a chief or chiefs, or at the granting of any ordinary consent required of a band under this Part, those entitled to vote at the council or meeting thereof, shall be the male members of the band, of a full age of twenty-one years: and the vote of a majority of such members, at a council or meeting of the band summoned according to its rules, and held in the presence of the Superintendent General, or of an agent acting under his instructions, shall be sufficient to determine such election or grant such consent. R.S., c. 43, s. 127.

How and by whom chiefs are to be elected.

How consent may be granted, if band has council.

167. If any band has a council of chiefs or councillors, any ordinary consent required of the band may be granted by a vote of a majority of such chiefs or councillors, at a council summoned according to its rules, and held in the presence of the Superintendent General or his agent. R.S., c. 43, s. 128.

No intoxicants to be introduced at any Indian council meeting.

168. No one shall introduce any intoxicant at any council or meeting of Indians held for the purpose of discussing or of assenting to a release or surrender of a reserve or portion thereof, or for the purpose of assenting to the issuing of a timber or other license. R.S., c. 43, s. 103.

Before whom affidavits are to be made under this Act.

169. All affidavits required under this Act or intended to be used in reference to any claim, business or transaction in connection with Indian affairs, may be taken before the judge or clerk of any county or circuit court, or any justice of the peace, or any commissioner for taking affidavits in any court, or the Superintendent General, or the deputy of the Superintendent General, or any inspector of Indian agencies, or any Indian agent, or any surveyor duly licensed and sworn, appointed by the Superintendent General to inquire into, or to take evidence, or report in any matter submitted to or pending before the Superintendent General, or if made out of Canada, before the mayor or chief magistrate of, or the British consul in any city, town or municipality, or before any notary public. R.S., c. 43, s. 129.

Publication of regulations and laying before Parliament.

170. All regulations made by the Governor in Council under this Part shall be published in the *Canada Gazette*, and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof. R.S., c. 43, s. 131; 57-58 V., c. 32, s. 12.

Payment of Indian annuities.

171. The annuities payable to Indians in pursuance of the conditions of any treaty expressed to have been entered into on behalf of His Majesty or His predecessors, and for the payment of which the Government of Canada is responsible, shall be a charge upon the Consolidated Revenue Fund of Canada, and be payable out of any unappropriated moneys forming part thereof. 1-2 Geo. V, c. 14, s. 3.

PART II.

INDIAN ADVANCEMENT.

Interpretation.

Definitions.

172. In this Part, unless the context otherwise requires,

"Reserve"

(a) "reserve" includes two or more reserves, and "band" includes two or more bands united for the purposes of this Part by the Order in Council applying it;

(b) "electors" means the male Indians of the full age of twenty-one years resident on any reserve to which this Part applies. R.S., c. 44, ss. 1 and 5.

Application of this Part.

173. This Part may be made applicable, as hereinafter provided, to any band of Indians in any of the provinces, or in the Territories, except in so far as it is herein otherwise provided. R.S., c. 44, s. 2. Application of Part.

174. Whenever any band of Indians is declared by the Governor in Council to be considered fit to have this Part applied to it, this Part shall so apply from the time appointed in such Order in Council. R.S., c. 44, s. 3. When this Part shall apply.

Application of Part I.

175. The provisions of Part I of this Act shall continue to apply to every band to which this Part is, from time to time declared to apply, in so far only as they are not inconsistent with this Part: Provided that, if it thereafter appears to the Governor in Council that this Part cannot be worked satisfactorily by any band to which it has been declared to apply, the Governor in Council may by Order in Council, declare that after a day named in the Order in Council, this Part shall no longer apply to such band, and such band shall thereafter be subject only to Part I, except that by-laws, rules and regulations theretofore made under this Part, and not *ultra vires* of the chiefs in council under Part I, shall continue in force until they are repealed by the Governor in Council. R.S., c. 44, s. 2. Application of Part I.
As to by-laws.

Division of Reserves.

176. Every reserve to which this Part is to apply may, by the Order in Council applying it, be divided into sections, the number of which shall not exceed six, and each section shall have therein, as nearly as is found convenient, an equal number of male Indians of the full age of twenty-one years, or, should the majority of the Indians of the reserve so desire, the whole reserve may form one section, the wishes of the Indians in respect thereto being first ascertained in the manner prescribed in Part I, in like matters, and certified to the Superintendent General by the Indian agent. Division of reserves into sections.

2. The sections shall be distinguished by numbers from one upwards, and the reserve shall be designated in the Order in Council as *The Indian Reserve*, inserting such name as is thought proper, and the sections shall be designated by the numbers assigned to them respectively. R.S., c. 44, s. 4; 53 V., c. 30, s. 1. Designation of each.

Nominations for Election of Councillors.

Meeting for
election of
councillors.

177. A meeting of the electors for the purpose of nominating candidates for election as councillors shall be held between the hours of ten o'clock in the forenoon and twelve o'clock at noon, at a place to be appointed by the Indian agent, on a day being one week previous to the day on which the election of councillors is to be held on any reserve as hereinafter provided.

Notice of
meeting.

2. Due notice of such meeting shall be given in the manner customary in the band for calling meetings for public purposes. 53 V., c. 30, s. 3.

Chairman to
preside.

178. The Indian agent, or in his absence such person as is appointed by the Superintendent General, or failing such appointment, a chairman to be chosen by the meeting, shall preside over such meeting and shall take and keep the minutes thereof. 53 V., c. 30, s. 3.

Candidates
and their
nomination.

179. Only Indians nominated at such meeting shall be recognized as, or permitted to become candidates for election as aforesaid; and each nomination to be valid must be made on the motion of an elector of the section of the reserve for the representation whereof the nominee is proposed as a candidate, and the motion must be seconded by another elector of that section. 53 V., c. 30, s. 3.

Time of
nomination.

180. The nominations of the candidates shall, so far as practicable, be made consecutively and previously to any speeches being made by the movers and seconders or by any other persons, but nominations may be made up to the hour of twelve o'clock noon. 53 V., c. 30, s. 3.

Proceedings
after nomi-
nation.

181. If only one candidate for any councillorship is proposed the Indian agent or chairman shall, at twelve o'clock noon, declare such candidate duly elected; and if two or more candidates are proposed for any councillorship an election shall be held under the provisions of this Part, 53 V., c. 30, s. 3.

Elections.

First election
of members
of the
council

182. On a day and at a place, and between the hours prescribed in the Order in Council, the electors shall meet for the purpose of electing the members of the council of the reserve. R.S., c. 44, s. 5.

Who shall
be deemed
elected.

183. One or more members to represent each section of the reserve, as provided in such Order in Council, shall be elected by the electors resident in each section, and the Indian or Indians, as the case may be, having the votes of the greatest number of electors for each section, shall be the councillor or councillors, as the case may be, therefor, provided he or they are respectively possessed of, and living in, a house in the reserve. R.S., c. 44, s. 5.

184. The agent for the reserve shall preside at the election, or in his absence some person appointed by him as his deputy, with the consent of the Superintendent General, or some person appointed by the Superintendent General may preside at the said election, and shall take and record the votes of the electors, and may, subject to appeal to the Superintendent General by or on behalf of any Indian or Indians who deems himself or themselves aggrieved by the action of such agent or deputy, or such agent or person appointed as aforesaid, admit or reject the claim of any Indian to be an elector, and may determine who are the councillors for the several sections, and shall report the same to the Superintendent General.

Who shall preside at the election and his powers.

2. In any case of an equality of votes at any such election the agent or person presiding thereat shall have the casting vote.

Chairman to have casting vote.

R.S., c. 44, s. 5.

Meetings of Council.

185. On a day and at a place, and between the hours prescribed by the Superintendent General, if the day fixed for the same is within eight days from the date at which the councillors were elected, the said councillors shall meet and elect one of their number to act as chief councillor, and the councillor so elected shall be the chief councillor. R.S., c. 44, s. 6.

First meeting of councillors.

186. The council shall meet for the despatch of business at such place on the reserve and at such times as the agent for the reserve appoints, but which shall not exceed twelve times or be less than four times in the year for which it is elected, and due notice of the time and place of each meeting shall be given to each councillor by the agent. R.S., c. 44, s. 9.

Meetings of the Council.

187. At such meeting of the council the agent for the reserve, or his deputy appointed for the purpose with the consent of the Superintendent General, shall,—

Agent at such meeting, his duties.

- (a) preside, and record the proceedings;
- (b) control and regulate all matters of procedure and form and adjourn the meeting to a time named or *sine die*;
- (c) report and certify all by-laws and other acts and proceedings of the council to the Superintendent General;
- (d) address the council and explain and advise the members thereof upon their powers and duties.

2. No such agent or deputy shall vote on any question to be decided by the council. R.S., c. 44, s. 9.

Not to vote.

188. Full faith and credence shall be given in all courts and places whatsoever to any certificate given by such agent or deputy under the provisions of paragraph (c) of the last preceding section. R.S., c. 44, s. 9.

Faith and credence given to his certificate.

Votes.

189. Each councillor present shall have a vote on every question to be decided by the council, and such question shall be decided by the majority of votes, the chief councillor voting as a councillor and having also a casting vote, in case the votes would otherwise be equal.

Quorum.

2. Four councillors shall be a quorum for the despatch of any business. R.S., c. 44, s. 9.

Term of Office, Vacancies, Etc.

Term of office.

190. The councillors shall remain in office until others are elected in their stead, and an election for that purpose shall be held in like manner, at the same place and between the like hours on the like day, in each succeeding year, if it is not a Sunday or holiday, in which case it shall be held on the next day thereafter which is not a Sunday or a holiday.

2. If there is a failure to elect on the day appointed for the election, the Superintendent General shall appoint another day on which it shall be held. R.S., c. 44, s. 7.

Vacancies;
how filled.

191. In the event of a vacancy in the council, by the death or inability to act of any councillor, more than three months before the time for the next election, an election to fill such vacancy shall be held by the agent or his deputy, after such notice to the electors concerned as the Superintendent General directs, at which only the electors of the section represented by the councillor to be replaced shall vote, and to such election the provisions respecting other elections shall apply, so far as they are applicable.

In office of
chief councillor.

2. If the councillor to be replaced is the chief councillor, then an election of a chief councillor shall be held in the manner already provided, but the day fixed for such election shall be at least one week after the date when the new councillor is elected. R.S., c. 44, s. 8.

Remaining
councillors
to constitute
council.

192. During the time of any vacancy in the council the remaining councillors shall constitute the council, and they may, in the event of a vacancy in the office, appoint a chief from among themselves for the time being. R.S., c. 44, s. 8.

Disqualifica-
tions in cer-
tain cases.

193. Every member of a council elected under the provisions of this part, who is proved to be a habitual drunkard or to be living in immorality, or to have accepted a bribe, or to have been guilty of dishonesty or of malfeasance of office of any kind, shall, on proof of the fact to the satisfaction of the Superintendent General, be disqualified from acting as a member of the council, and shall, on being notified, cease forthwith so to act; and the vacancy occasioned thereby shall be filled in the manner hereinbefore provided. R.S., c. 44, s. 11

Vacancy.

Powers of Council.

194. The council may, by by-law, rule or regulation, approved and confirmed by the Superintendent General, provide that the religious denomination to which the teacher or teachers of the school or schools established on the reserve shall belong, shall be that of the majority of the Indians resident on the reserve: Provided that the Protestant or Roman Catholic minority on the reserve may also have a separate school or schools, with the approval of and under regulations made by the Governor in Council.

2. The council may also make by-laws, rules and regulations, approved and confirmed by the Superintendent General, regulating all or any of the following subjects and purposes, that is to say:—

- (a) The care of public health; Health.
- (b) The observance of order and decorum at elections of councillors, meetings of the council, and assemblies of Indians on other occasions, or generally, on the reserve, by the appointment of constables and erection of lock-up houses, or by the adoption of other legitimate means; Order.
- (c) The repression of intemperance and profligacy; Intemperance.
- (d) The subdivision of the land in the reserve, and the distribution of the same amongst the members of the band; also, the setting apart, for common use, of woodland and land for other purposes; Subdivision of reserve.
- (e) The protection of and the prevention of trespass by cattle, sheep, horses, mules and other domesticated animals; and the establishment of pounds, the appointment of pound-keepers and the regulation of their duties, fees and charges; Trespass.
Pounds.
- (f) The construction and repairs of school houses, council houses and other buildings for the use of the Indians on the reserve, and the attendance at school of children between the ages of six and fifteen years; School houses, etc.
- (g) The construction, maintenance and improvement of roads and bridges, and the contributions, in money or labour, and other duties of residents on the reserve, in respect thereof; the size and kind of sleighs to be used on the roads in the winter season, and the manner in which the horse or horses or other beasts of burden shall be harnessed to such sleighs; and the appointment of road-masters and fence-viewers, and their powers and duties; Roads, etc.
- (gg) The construction, maintenance and improvement of water, sewerage and lighting works and systems. Water works, etc.
- (h) The construction and maintenance of watercourses, ditches and fences, and the obligations of vicinage, the destruction and repression of noxious weeds and the preservation of the wood on the various holdings, or elsewhere, in the reserve; Water-courses, etc.

Removal of trespassers.	(i) The removal and punishment of persons trespassing upon the reserve, or frequenting it for improper purposes;
Revenue.	(j) The raising of money for any or all of the purposes for which the council may make by-laws as aforesaid, by assessment and taxation of the lands of Indians enfranchised, or in possession of lands by location ticket in the reserve: Provided that the valuation for assessment shall be made yearly, in such manner and at such times as are appointed by the by-law in that behalf, and be subject to revision and correction by the agent of the reserve, and shall come into force only after it has been submitted to him and corrected, if and as he thinks justice requires, and approved by him, and that the tax shall be imposed for the year in which the by-law is made, and shall not exceed one-half of one per centum on the assessed value of the land on which it is to be paid; and provided also that any Indian deeming himself aggrieved by the decision of the agent, made as hereinbefore provided may appeal to the Superintendent General, whose decision in the matter shall be final;
Assessments.	
Rates.	
Payment of Indian's share of his default.	
Appeal.	
Appropriation of certain funds.	(k) The appropriation and payment to the local agent, as treasurer, by the Superintendent General, of so much of the moneys of the band as are required for defraying expenses necessary for carrying out the by-laws made by the council, including those incurred for assistance absolutely necessary for enabling the council or the agent to perform the duties assigned to them;
Penalties and enforcement thereof.	(l) The imposition of punishment by penalty or by imprisonment, or by both, for any violation of or disobedience to any law, rule or regulation made under this Part, committed by any Indian of the reserve; but such penalty shall, in no case, except for non-payment of taxes, exceed thirty dollars, and the imprisonment shall not exceed thirty days.
Taxes, how recovered.	2. If any tax authorized by any by-law, or any part thereof, is not paid at the time prescribed by the by-law, the amount unpaid, with the addition of one-half of one per centum thereof, may be paid by the Superintendent General to the treasurer out of the share in any money of the band of the Indian in default; and, if such share is insufficient to pay the tax, or any portion thereof so remaining unpaid, the defaulter shall be deemed to have violated the by-law imposing the tax, and shall incur a penalty therefor equal to the amount of the tax or the balance thereof remaining unpaid, as the case may be.
Penalty.	
Provisions for the imposition of punishment.	3. The proceedings for the imposition of any punishment authorized by this section, or the by-laws, rules or regulations approved and confirmed thereunder, may be taken before one justice of the peace, under Part XV of the Criminal Code; and the amount of any such penalty shall be paid over to the treasurer of the band to which the Indian incurring it belongs for the use of such band.

4. The by-laws, rules and regulations by this section authorized to be made shall, when approved and confirmed by the Superintendent General, have the force of law within and with respect to the reserve, and the Indians residing thereon. R.S., c. 44, s. 10; 53 V., c. 30, s. 2; 10-11 Geo. V, c. 50, s. 5.

Evidence.

195. A copy of any by-law, rule or regulation under this Part, approved by the Superintendent General, and purporting to be certified by the agent for the band to which it relates to be a true copy thereof, shall be evidence of such by-law, rule or regulation, and of such approval, without proof of the signature of such agent; and no such by-law, rule or regulation shall be invalidated by any defect to form, if it is substantially consistent with the intent and meaning of this Part. R.S., c. 44, s. 12.

PART THREE.

SOLDIER SETTLEMENT.

196. *The Soldier Settlement Act, 1919* (excepting sections three, four, eight, nine, ten, eleven, fourteen, twenty-nine, subsection two of fifty-one, and sixty thereof, and excepting the whole of Part Three thereof), with such amendments as may from time to time be made to said Act shall, with respect to any "settler" as defined by said Act who is an "Indian" as defined by this Act, be administered by the Superintendent General of Indian Affairs.

(2) For the purpose of such administration, the Deputy Superintendent General of Indian Affairs shall have the same powers as the Soldier Settlement Board has under *The Soldier Settlement Act, 1919*, the words "Deputy Superintendent General of Indian Affairs" being, for such purpose, read in the said Act as substituted for the words "The Soldier Settlement Board" and for the words "The Board."

(3) Said Act, with such exceptions as aforesaid, shall for such purpose, be read as one with this Part of this Act.

197. The Deputy Superintendent General may acquire for a settler who is an Indian, land as well without as within an Indian reserve, and shall have authority to grant to such settler a location ticket for common lands of the band without the consent of the Council of the band, and, in the event of land being acquired or provided for such settler in an Indian reserve, the Deputy Superintendent General shall have power to take security as provided by *The Soldier Settlement Act, 1919*, and to exercise all otherwise lawful rights and powers with respect to such lands, notwithstanding any provisions of the *Indian Act* to the contrary.

(2) Every such grant shall be in accordance with the provisions of said *Soldier Settlement Act, 1919*, and of this Part.

Soldier
Settlement
Board to
assist
Deputy Supt.
General.

198. The Soldier Settlement Board and its officers and employees shall, upon request of the Deputy Superintendent General of Indian Affairs, aid and assist him, to the extent requested, in the execution of the purposes of this Act, and the said Board may sell, convey and transfer to the said Deputy, for the execution of any such purposes, at such prices as may be agreed, any property held for disposition by such Board.

Power of
Governor in
Council
to settle
doubts and
define
powers.

199. In the event of any doubt or difficulty arising with respect to the administration by the Superintendent General of Indian Affairs of the provisions of *The Soldier Settlement Act, 1919*, or as to the powers of the Deputy Superintendent General of Indian Affairs, as by this Act authorized or granted, the Governor in Council may, by order, resolve such doubt or difficulty and may define powers and procedure.

(2) Such order shall not extend the powers which are by *The Soldier Settlement Act, 1919*, provided. 9-10 Geo. V, c. 56, s. 4.

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